

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION MDL No. 2804  
OPIATE LITIGATION Case No. 17-md-2804

This document relates to: Judge Dan  
Aaron Polster

The County of Cuyahoga v. Purdue  
Pharma, L.P., et al.  
Case No. 17-OP-45005  
City of Cleveland, Ohio vs. Purdue  
Pharma, L.P., et al.  
Case No. 18-OP-45132  
The County of Summit, Ohio,  
et al. v. Purdue Pharma, L.P.,  
et al.  
Case No. 18-OP-45090

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VOLUME II  
Videotaped Deposition of Joseph Rannazzisi  
Washington, D.C.  
May 15, 2019  
8:43 a.m.

Reported by: Bonnie L. Russo  
Job No. 3301884

<p style="text-align: right;">Page 365</p> <p>1 Videotaped Deposition of Joseph Rannazzisi held 2 at: 3 4 5 6 7 8 Covington &amp; Burling, LLP 9 850 10th Street, N.W. 10 Washington, D.C. 11 12 13 Pursuant to Notice, when were present on behalf 14 of the respective parties: 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 367</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of Plaintiffs: 3 PAUL T. FARRELL, JR., ESQ. 4 GREENE KETCHUM, LLP 5 419 Eleventh Street 6 Huntington, West Virginia 25701 7 304-525-9115 8 paul@greeneketchum.com 9 -and- 10 MICHAEL J. FULLER, ESQ. 11 McHUGH FULLER LAW GROUP 12 97 Elias Whiddon Road 13 Hattiesburg, Mississippi 39402 14 601-467-0788 15 mike@mchughfuller.com 16 -and- 17 MILDRED CONROY, ESQ. 18 THE LANIER LAW FIRM 19 Tower 56 20 126E. 56th Street, 6th Floor 21 New York, New York 10022 22 212-421-2800 23 mildred.conroy@lanierlawfirm.com 24 -and- 25 W. MARK LANIER, ESQ. RACHEL LANIER, ESQ. 6810 Cypress Creek Parkway Houston, Texas 77069 713-659-5200 wml@lanierlawfirm.com -and- JAYNE CONROY, ESQ. LAURA FITZPATRICK, ESQ. SIMMONS HANLY CONROY 112 Madison Avenue New York, New York 10016 212-784-6402 jconroy@simmonsfirm.com lfitzpatrick@simmonsfirm.com On behalf of Purdue Pharma, L.P.: DEBRA D. O'GORMAN, ESQ. DECHERT, LLP Three Bryant Park 1095 Avenue of the Americas New York, New York 10036 212-698-3593 debra.ogorman@dechert.com</p>
<p style="text-align: right;">Page 366</p> <p>1 APPEARANCES: 2 3 On behalf of the Witness: 4 GREGORY M. UTTER, ESQ. 5 KEATING MUETHING &amp; KLEKAMP, PLL 6 One East Fourth Street 7 Suite 1400 8 Cincinnati, Ohio 45202 9 513-579-6540 10 On behalf of the U.S. Department of Justice: 11 JAMES R. BENNETT, II, ESQ. 12 UNITED STATES ATTORNEY'S OFFICE 13 801 West Superior Avenue 14 Suite 400 15 Cleveland, Ohio 44113 16 216-622-3988 17 james.bennett4@usdoj.gov 18 On behalf of Cuyahoga County: 19 SALVATORE C. BADALA, ESQ. 20 NAPOLI SHKOLNIK, PLLC 21 400 Broadhollow Road, Suite 305 22 Melville, New York 11747 23 631-224-1133 24 sbadala@napolilaw.com 25 On behalf of Summit County: DONALD A. MIGLIORI, ESQ. MOTLEY RICE, LLC 28 Bridgeside Boulevard Mt. Pleasant, South Carolina 29464 843-216-9241 dmigliori@motleyrice.com -and- JENNA N. FORSTER, ESQ. MOTLEY RICE, LLC 401 9th Street, N.W. Suite 1001 Washington, D.C. 20004 202-849-4960 jforster@motleyrice.com</p>	<p style="text-align: right;">Page 368</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of Johnson &amp; Johnson and Janssen 3 Pharmaceuticals, Inc.: 4 JEFFREY A. BARKER, ESQ. 5 O'MELVENY &amp; MYERS, LLP 6 610 Newport Center Drive 7 17th Floor 8 Newport Beach, California 92660 9 949-823-7963 10 jbarker@omm.com 11 -and- 12 JEFFREY C. SINDELAR, JR., ESQ. 13 (Via Teleconference) 14 TUCKER ELLIS, LLP 15 950 Main Avenue 16 Suite 1100 17 Cleveland, Ohio 44113 18 216-592-5000 19 jeffrey.sindelar@tuckerellis.com 20 On behalf of Walmart, Inc.: 21 NEAL J. STEPHENS, ESQ. 22 JONES DAY 23 1755 Embarcadero Road 24 Palo Alto, California 94303 25 650-739-3939 nstephens@jonesday.com -and- PATRICK J. BEISELL, ESQ. (Via Teleconference) JONES DAY 77 West Wacker Chicago, Illinois 60601 312-269-4066 pbeisell@jonesday.com On behalf of Endo: JOSHUA M. DAVIS, ESQ. ARNOLD &amp; PORTER 601 Massachusetts Avenue, N.W. Washington, D.C. 20001 202-942-5000 joshua.davis@arnoldporter.com</p>

<p style="text-align: right;">Page 369</p> <p>1 APPEARANCES (CONTINUED):  2 On behalf of Rite Aid of Maryland:  JOHN P. LAVELLE, JR., ESQ.  3 MORGAN, LEWIS &amp; BOCKIUS, LLP  1701 Market Street  4 Philadelphia, Pennsylvania 19103  609-919-6688  5 john.lavelle@morganlewis.com  6 On behalf of Teva Pharmaceutical Industries:  MORGAN LEWIS &amp; BOCKIUS, LLP  7 MAUREEN BARBER, ESQ.  (Via Teleconference)  8 One Oxford Centre  Thirty Second Floor  9 Pittsburgh, Pennsylvania 15219  412-560-7463  10 maureen.barber@morganlewis.com  11 On behalf of Cardinal Health, Inc.:  WILLIAMS &amp; CONNOLLY, LLP  12 ENU MAINIGI, ESQ.  COLLEEN McNAMARA, ESQ.  13 BRAD MASTERS, ESQ.  725 12th Street, N.W.  14 Washington, D.C. 20005  202-434-5000  15 emainigi@wc.com  cmcnamara@wc.com  16 bmasters@wc.com  17 On behalf of CVS Indiana, LLC and CVS Rx  Services, Inc.:  18 ANTHONY M. RUIZ, ESQ.  ZUCKERMAN SPAEDER, LLP  19 1800 M Street, N.W.  Suite 1000  20 Washington D.C. 20036  202-778-1800  21 aruiz@zuckerman.com  22  23  24  25</p>	<p style="text-align: right;">Page 371</p> <p>1 APPEARANCES (CONTINUED):  2 On behalf of H.D. SMITH:  KATHLEEN L. MATSOUKAS, ESQ.  3 BARNES &amp; THORNBURG, LLP  11 South Meridian Street  4 Indianapolis, Indiana 46204  317-236-1313  5 kmatsoukas@btlaw.com  6 On behalf of Anda, Inc.:  JAMES W. MATTHEWS, ESQ.  7 FOLEY &amp; LARDNER, LLP  111 Huntington Avenue  8 Boston, Massachusetts 02199  617-342-4000  9 jmatthews@foley.com  10 On behalf of HBC:  SCOTT D. LIVINGSTON, ESQ.  11 MARCUS &amp; SHAPIRA, LLP  One Oxford Centre, 35th Floor  12 301 Grant Street  Pittsburgh, Pennsylvania 15219  13 412-338-4690  livingston@marcus-shapira.com  14  On behalf of Walgreen Co. and Walgreen Eastern  15 Co., Inc.:  KASPAR STOFFELMAYR, ESQ.  16 BARTLIT BECK, LLP  54 West Hubbard Street  17 Chicago, Illinois 60654  312-494-4434  18 kaspar.stoffelmayr@bartlitbeck.com  19 On behalf of Discount Drug Mart:  ERIC J. WEISS, ESQ.  20 (Via Teleconference)  CAVITCH FAMILO &amp; DURKIN, CO., LPA  21 1300 E. 9th Street  Cleveland, Ohio 44114  22 216-621-7860  eweiss@cavitch.com  23  24  25</p>
<p style="text-align: right;">Page 370</p> <p>1 APPEARANCES (CONTINUED):  2 On behalf of AmerisourceBergen Drug  Corporation:  3 SHANNON McCLURE, ESQ.  REED SMITH, LLP  4 Three Logan Square, Suite 3100  1717 Arch Street  5 Philadelphia, Pennsylvania 19103  215-241-7910  6 smclure@reedsmith.com  7 On behalf of McKesson Corporation:  MEGHAN E. MONAGHAN, ESQ.  8 COVINGTON &amp; BURLING, LLP  One CityCenter  9 850 Tenth Street, N.W.  Washington, D.C. 20001  10 202-662-6000  mmonaghan@cov.com  11 -and-  CHRISTOPHER K. EPPICH, ESQ.  12 COVINGTON &amp; BURLING, LLP  1999 Avenue of the Stars  13 Los Angeles, California 90067  424-332-4764  14 ceppich@cov.com  15 On behalf of Allergan Finance, LLC:  JENNIFER LEVY, ESQ.  16 KIRKLAND &amp; ELLIS, LLP  655 Fifteenth Street, N.W.  17 Washington, D.C. 20005  202-879-5907  18 jennifer.levy@kirkland.com  19 On behalf of Mallinckrodt and Specgx, LLC:  ANDREW O'CONNOR, ESQ.  20 WILLIAM DAVISON, ESQ.  ROPES &amp; GRAY, LLP  21 Prudential Tower  800 Boylston Street  22 Boston, Massachusetts 02199  617-951-7000  23 andrew.o'connor@ropesgray.com  william.davison@ropesgray.com  24  25</p>	<p style="text-align: right;">Page 372</p> <p>1 APPEARANCES (CONTINUED):  2 On behalf of Rochester Drug Cooperative, Inc.  LAUREN, PINCUS, ESQ.  3 (Via Teleconference)  ALLEGAERT BERGER &amp; VOGEL, LLP  4 111 Broadway, 20th Floor  New York, New York 10006  5 212-571-0550  lpincus@abv.com  6  7 ALSO PRESENT:  Special Master Cohen  8 Peter H. Weinberger, Spangenberg Shibley &amp;  Liber, Plaintiffs  9 Renee A. Bacchus, Esq., United States  Department of Justice, United States Attorney's  10 Office  David M. Finkelstein, Esq., United States  11 Department of Justice, Civil Fraud Section  Patrick J. Forrest, United States Department of  12 Justice, Drug Enforcement Administration  Jesse J. Alcorta, The Lanier Law Firm, Director  13 of Operations  Amber Nona (Via Teleconference), The Lanier Law  14 Firm, Paralegal  Daniel Lawlor, Videographer  15  16  17  18  19  20  21  22  23  24  25</p>

<p style="text-align: right;">Page 373</p> <p style="text-align: center;">C O N T E N T S</p> <p>EXAMINATION OF JOSEPH RANNAZZISI</p> <p>BY MR. LANIER 375</p> <p>631</p> <p>BY MR. MAINIGI 513</p> <p>BY MR. EPPICH 582</p> <p>BY MR. STEPHENS 610</p> <p style="text-align: center;">E X H I B I T S</p> <p>Exhibit 1 Letter dated 9-27-06 428</p> <p>ALLERGAN_MDL_02467796-7799</p> <p>Exhibit 2 Letter dated 12-27-07 463</p> <p>MCKMDL00478910-8911</p> <p>Exhibit 3 Settlement and Release 471</p> <p>Agreement</p> <p>ABDCMDL00279854-9865</p> <p>Exhibit 4 Settlement and Release 473</p> <p>Agreement and Administrative</p> <p>Memorandum of Agreement</p> <p>MCKMDL00337001-7024</p> <p>Exhibit 5 Administrative Memorandum 475</p> <p>of Agreement</p> <p>MCKMDL00355350-5363</p> <p>Exhibit 6 Settlement Agreement 484</p> <p>CVS-MDLT1-000060796-804</p> <p>Exhibit 7 Administrative Memorandum 486</p> <p>of Agreement</p> <p>MNK-T1_0007027620-7650</p> <p>Exhibit 8 Handwritten Slides 512</p> <p>Exhibit 9 Title 21 United States Code 525</p> <p>(USC) Controlled Substances Act</p> <p>Section 823</p>	<p style="text-align: right;">Page 375</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>THE VIDEOGRAPHER: We are now on</p> <p>the record. My name is Dan Lawlor, I'm a</p> <p>videographer with Golkow Litigation Services.</p> <p>Today's date is May 15, 2019, and the time is</p> <p>8:43 a.m.</p> <p>This video deposition is being held</p> <p>in Washington, D.C., in the matter of In RE:</p> <p>National Prescription Opioid Litigation, MDL</p> <p>No. 2804. The deponent is Joseph Rannazzisi.</p> <p>Counsel will be noted on the</p> <p>stenographic record. The court reporter is</p> <p>Bonnie Russo and will now swear in the witness.</p> <p>JOSEPH RANNAZZISI,</p> <p>being first duly sworn, to tell the truth, the</p> <p>whole truth and nothing but the truth,</p> <p>testified as follows:</p> <p>EXAMINATION BY COUNSEL FOR PLAINTIFFS</p> <p>BY MR. LANIER:</p> <p>Q. Mr. Rannazzisi, thank you for your</p> <p>time today. My name is Mark Lanier. You and I</p> <p>have not met before you sat down here just a</p> <p>few minutes ago; is that right?</p>
<p style="text-align: right;">Page 374</p> <p>EXHIBITS (CONTINUED):</p> <p>Exhibit 10 Title 21 Code of Federal 525</p> <p>Regulations</p> <p>Section 1301.74</p> <p>Exhibit 11 Report to Congressional 576</p> <p>Requesters</p> <p>June 2015</p> <p>Exhibit 12 DEA's Privilege/Redaction Log 595</p> <p>Exhibit 13 Handwritten Slides 610</p> <p>Exhibit 14 The Drug Enforcement 622</p> <p>Administration's Role in</p> <p>Combating the Opioid Epidemic</p> <p>Hearing</p> <p>3-20-18</p> <p>Exhibit 15 Washington Post Article 634</p> <p>10-15-17</p> <p>Exhibit 16 Industry Compliance 648</p> <p>Guidelines Healthcare</p> <p>Distribution Management</p> <p>Association Industry</p> <p>Compliance Guidelines:</p> <p>Reporting Suspicious Orders</p> <p>and Preventing Diversion of</p> <p>Controlled Substances</p> <p>Exhibit 17 NWDA Suspicious Order 652</p> <p>Monitoring System date</p> <p>stamped 6-21-93</p> <p>CAH_MDL_PRIORPROD_DEA07_00869965-0002</p> <p>Exhibit 18 Administrative Memorandum 654</p> <p>of Agreement</p> <p>CAH_MDL2804_00135203-5210</p> <p>Exhibit 19 Memorandum dated 3-1-07 671</p> <p>Handwritten Slide</p> <p>CAH_MDL_PRIORPROD_DEA12_00010978-979</p> <p>(Exhibits included with transcript.)</p>	<p style="text-align: right;">Page 376</p> <p>A. That's correct.</p> <p>Q. You understand, though, that I</p> <p>represent the claimants that are bringing this</p> <p>lawsuit against the various opioid defendants</p> <p>that are present in court today.</p> <p>Do you understand?</p> <p>A. Yes.</p> <p>Q. All right. I have got a picture</p> <p>with some notes that I will make as we go</p> <p>along. That's you.</p> <p>Did I spell your name right?</p> <p>A. Yes, sir.</p> <p>Q. Would you pronounce it for me so</p> <p>that I can pronounce it right?</p> <p>A. Rannazzisi.</p> <p>Q. Rannazzisi. All right. And that</p> <p>picture looks pretty much like you. I don't</p> <p>see much difference there.</p> <p>Let me tell you where we would like</p> <p>to go today and what all I need to ask you</p> <p>about. I have done a little roadmap for you</p> <p>and for the jury so that we can follow along.</p> <p>The roadmap, I am calling you the 60 Minute</p> <p>Man. You have been on 60 Minutes; is that</p> <p>right?</p>

<p style="text-align: right;">Page 377</p> <p>1 A. Yes, sir.</p> <p>2 Q. All right. So on 60 Minute Man</p> <p>3 Road, I want to make a stop to talk about your</p> <p>4 background, I want to make a stop to talk about</p> <p>5 the 60 Minutes episode and then I want to ask</p> <p>6 some follow-up questions and we will deal with</p> <p>7 some roadblocks or some questions about your</p> <p>8 testimony along the way. Okay?</p> <p>9 A. Yes, sir.</p> <p>10 Q. So with that, if you have got any</p> <p>11 questions as we go along, let me know but we're</p> <p>12 going to begin with stopping at your background</p> <p>13 and I will start a clean sheet on your</p> <p>14 background so that we can look at it together.</p> <p>15 All right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Would you please tell the jury a</p> <p>18 little bit about where you are from, where you</p> <p>19 grew up, just so they've got a feel for you.</p> <p>20 A. I grew up in a town on Long Island,</p> <p>21 New York, Freeport, New York. It's a smaller</p> <p>22 town on the south shore of Long Island. Went</p> <p>23 to Freeport High School, from Freeport High</p> <p>24 School, I went to Butler University.</p> <p>25 Q. And Butler university is in</p>	<p style="text-align: right;">Page 379</p> <p>1 Q. Fair enough. All right. Did you</p> <p>2 ever work as a pharmacist?</p> <p>3 A. I interned at a community pharmacy,</p> <p>4 Hooks Drugstore in Indianapolis and my primary</p> <p>5 employment post-graduation was at the Veterans</p> <p>6 Administration as a staff pharmacist.</p> <p>7 Q. So you were a pharmacy intern and</p> <p>8 then a staff pharmacist for the VA?</p> <p>9 A. Yes.</p> <p>10 Q. All right. Did you get any more</p> <p>11 education beyond your bachelor's degree in</p> <p>12 pharmacy?</p> <p>13 A. Yes, sir, I did.</p> <p>14 Q. What else -- where else did you go</p> <p>15 to school?</p> <p>16 A. I went to Detroit College of Law at</p> <p>17 Michigan State University and received my juris</p> <p>18 doctor in 1999.</p> <p>19 Q. So Michigan State University?</p> <p>20 A. Detroit College of Law.</p> <p>21 Q. Detroit College of Law. And you got</p> <p>22 a law degree?</p> <p>23 A. Yes, sir.</p> <p>24 Q. What year was that?</p> <p>25 A. '99.</p>
<p style="text-align: right;">Page 378</p> <p>1 Indianapolis?</p> <p>2 A. Yes, sir.</p> <p>3 Q. What's their mascot, the Butler --</p> <p>4 A. Bulldogs.</p> <p>5 Q. -- bulldogs.</p> <p>6 A. Yes, sir.</p> <p>7 Q. All right. So you were a bulldog</p> <p>8 and when did you get out of college, out of</p> <p>9 Butler?</p> <p>10 A. 1984.</p> <p>11 Q. And what was your major?</p> <p>12 A. Pharmacy.</p> <p>13 Q. Are you actually a licensed</p> <p>14 pharmacist or have you been at some point in</p> <p>15 your life?</p> <p>16 A. Yes, sir. I maintain my pharmacy</p> <p>17 license, State of Indiana.</p> <p>18 Q. Okay. So you are a licensed</p> <p>19 pharmacist in Indiana. What does that enable</p> <p>20 you to do?</p> <p>21 A. It enables me to dispense medication</p> <p>22 pursuant to physicians' prescriptions.</p> <p>23 Q. I assume that is if you are in</p> <p>24 Indiana?</p> <p>25 A. If I am in Indiana, yes, sir.</p>	<p style="text-align: right;">Page 380</p> <p>1 Q. Did you ever take the bar exam?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did you pass?</p> <p>4 A. Yes, sir.</p> <p>5 Q. So you are a lawyer as well?</p> <p>6 A. Yes, sir, State of -- a member of</p> <p>7 the Michigan Bar.</p> <p>8 Q. All right. Do you keep your law</p> <p>9 license up as well?</p> <p>10 A. Yes, sir.</p> <p>11 Q. All right. In addition to your --</p> <p>12 by the way, did you ever do work as a lawyer</p> <p>13 per se?</p> <p>14 A. Just in my daily functions as a</p> <p>15 deputy assistant administrator.</p> <p>16 Q. All right. That's what we will get</p> <p>17 to in a moment.</p> <p>18 You have worked for the DEA; is that</p> <p>19 correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. So I got on the Internet</p> <p>22 because I am a visual guy and I looked up these</p> <p>23 pictures and this is what I found.</p> <p>24 Did you get one of those badges?</p> <p>25 A. Yes, sir, I did.</p>

<p style="text-align: right;">Page 381</p> <p>1 Q. So you had, like, one of these DEA 2 badges we see people flash on TV? 3 A. Yes, sir. Special agent badge. 4 Q. All right. When did you start 5 working for the DEA? 6 A. 1986 was when I was on board with 7 the DEA. 8 Q. Spoiler alert. Are you still with 9 the DEA? 10 A. No, I retired. 11 Q. When did you retire? 12 A. 2015. 13 Q. And there is a story behind that 14 that we will get to later on, but for now, the 15 jury can know that you worked there from '86 to 16 2015? 17 A. Yes, sir. 18 Q. Can you give us a thumbnail sketch 19 of what kinds of jobs you did for our Drug 20 Enforcement Administration? 21 A. Initially from '86 to '88, I was a 22 diversion investigator. 23 Q. All right. Now I think everybody is 24 going to know by the time we play your 25 deposition, but just in case they don't, define</p>	<p style="text-align: right;">Page 383</p> <p>1 the badge? 2 A. Yes, sir. 3 Q. Did you, like, carry a gun and 4 stuff? 5 A. Yes, sir. 6 Q. When we see the TV shows and they 7 make the drug busts of, like, the person 8 selling the street drugs or something like 9 that, are those DEA agents sometimes? 10 MS. MAINIGI: Objection. 11 THE WITNESS: Sometimes they are 12 portrayed as DEA agents, yes. 13 BY MR. LANIER: 14 Q. I mean, did you ever, like, arrest 15 anybody or do any of that stuff? 16 MS. MAINIGI: Objection. 17 THE WITNESS: Yes, sir. 18 BY MR. LANIER: 19 Q. All right. In addition to your job 20 starting in '88 as a special agent, what else 21 did you do for the DEA? 22 A. Well, in '88, I started in general 23 enforcement. I was working just general 24 illicit drug cases concentrating on clandestine 25 laboratories, methamphetamine and amphetamine</p>
<p style="text-align: right;">Page 382</p> <p>1 for us what is diversion. 2 A. Diversion is when pharmaceuticals or 3 listed chemicals are taken from the normal 4 stream or the legitimate stream of commerce and 5 moved into the illicit marketplace. 6 Q. So diversion happens when drugs are 7 diverted from their legal use? 8 A. Basically, yes. 9 Q. Okay. So basically -- and does that 10 happen often? 11 A. Unfortunately, yes. 12 Q. So as a diversion investigator, what 13 would you do? 14 A. We would investigate the methods 15 trying to determine why or how those drugs are 16 being removed from the illicit supply chain, 17 how they are getting to the illicit supply 18 chain and investigate and then take action to 19 stop that from happening. 20 Q. All right. In addition to your job 21 as a diversion investigator, what else did you 22 do for the DEA? 23 A. In 1988, I became a special agent. 24 Q. All right. So this first job was in 25 '86, '88, special agent -- is that when you get</p>	<p style="text-align: right;">Page 384</p> <p>1 cases, up until that occurred -- up until about 2 1995 or '96. 3 At that point in time, I was 4 promoted to the group supervisor of the Red Rum 5 Task Force which is a drug-related homicide 6 task force and we worked homicides, 7 drug-related homicides, street enforcement in 8 public housing project cases. I guess from '96 9 or '97 to 2000. 10 Q. All right. We're going to pause for 11 just a moment. 12 Are you picking up the bam, bam, 13 bam, bam? 14 THE VIDEOGRAPHER: A little bit. 15 MR. LANIER: Is there somebody who 16 can stop the bam, bam, bam, bam? 17 Don't be charging my time to fixing 18 the bam, bam, bam, bam, please. 19 THE VIDEOGRAPHER: Do you want to go 20 off the record? 21 MR. LANIER: If we need to. I don't 22 hear the bam, bam now. Do you? 23 Let's go off the record. 24 THE VIDEOGRAPHER: We are going off 25 the record. The time is 8:54.</p>



<p style="text-align: right;">Page 385</p> <p>1 (A short recess was taken.)</p> <p>2 THE VIDEOGRAPHER: This is the</p> <p>3 beginning of Media File No. 2. The time is</p> <p>4 8:58.</p> <p>5 BY MR. LANIER:</p> <p>6 Q. We had a brief break just now.</p> <p>7 During the break, I asked you, did you get one</p> <p>8 of those windbreakers that have the big DEA in</p> <p>9 gold on the back and you had told me yes, but</p> <p>10 you also started telling me about the overalls</p> <p>11 or the jumpsuit. Jumpsuit, not overalls. What</p> <p>12 was that you were telling me?</p> <p>13 A. We also had jumpsuits that we wore</p> <p>14 as well, jumpsuits -- basically to cover --</p> <p>15 cover our whole bodies because we were</p> <p>16 sometimes in environments that were extremely</p> <p>17 dirty, contaminated places, you know, to get</p> <p>18 full coverage. The windbreakers only cover the</p> <p>19 top.</p> <p>20 Q. So the jury has got a full idea of</p> <p>21 what DEA agents do and what you do and the</p> <p>22 skill set it takes to be an agent. I want you</p> <p>23 to give us a little bit more detail about even</p> <p>24 just the jumpsuits. Why do you wear them? We</p> <p>25 will start there and then I will ask you</p>	<p style="text-align: right;">Page 387</p> <p>1 toxic chemicals in the confines of the</p> <p>2 residence.</p> <p>3 We would have to dismantle potential</p> <p>4 clandestine lab, then remove those</p> <p>5 contaminants, those gross contaminant, the</p> <p>6 chemicals that we have encountered that are</p> <p>7 being used to manufacture methamphetamine.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. Was your work as a DEA agent, in</p> <p>10 regards to some of this, ever one that put your</p> <p>11 life at risk?</p> <p>12 A. Yes, sir. Yes, sir.</p> <p>13 Q. All right. You worked then as -- in</p> <p>14 general enforcement, you worked as a group</p> <p>15 supervisor. Had work in the homicide unit.</p> <p>16 What -- what other job work did you</p> <p>17 do with the DEA?</p> <p>18 A. In 2000, I was transferred to DEA</p> <p>19 headquarters as a staff coordinator for the</p> <p>20 dangerous drugs and chemical section or</p> <p>21 domestic operations west, which became the</p> <p>22 dangerous drugs and chemical section, and</p> <p>23 shortly thereafter, I was promoted to section</p> <p>24 chief of that section.</p> <p>25 Q. Dangerous drugs and chemical</p>
<p style="text-align: right;">Page 386</p> <p>1 another question afterwards.</p> <p>2 MR. BENNETT: Objection. Scope.</p> <p>3 Do you understand the limits of what</p> <p>4 you are allowed to discuss?</p> <p>5 BY MR. LANIER:</p> <p>6 Q. Yes, don't do it -- don't give me</p> <p>7 any secret info, just what publicly is</p> <p>8 available. Thank you.</p> <p>9 A. We wear the jumpsuits just to</p> <p>10 protect us from the environment that we are in,</p> <p>11 just to make sure that we are -- we have</p> <p>12 clothing that is not going to, you know, that</p> <p>13 we could take off and wash so we are not</p> <p>14 bringing anything home with us or any kind of</p> <p>15 toxins or contaminates that might be on those</p> <p>16 clothes.</p> <p>17 Q. What was it you were doing that</p> <p>18 would expose you to toxins and contaminants if</p> <p>19 you can tell me, publicly. Don't divulge any</p> <p>20 DEA secrets, please.</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: We regularly would be</p> <p>23 in environments, for instance, you know, crack</p> <p>24 houses, clandestine labs, where we would go</p> <p>25 into environments that have some chemicals,</p>	<p style="text-align: right;">Page 388</p> <p>1 section. What is that?</p> <p>2 A. Dangerous drugs and chemicals</p> <p>3 handled pretty much everything except for</p> <p>4 cocaine, heroin and marijuana. So every -- all</p> <p>5 the synthetic drugs that you see, all the</p> <p>6 manufactured clandestine --</p> <p>7 clandestinely-manufactured drugs, drugs like</p> <p>8 MDMA, methamphetamine, amphetamine,</p> <p>9 fenfluramine X, fentanyl, all those drugs that</p> <p>10 are clandestinely-manufactured would fall under</p> <p>11 the dangerous drugs, ecstasy, LSD.</p> <p>12 Q. All right. And you changed and went</p> <p>13 from being the staff coordinator for that to</p> <p>14 the chief you said?</p> <p>15 A. Section chief.</p> <p>16 Q. Section chief. Do you remember</p> <p>17 about when that was?</p> <p>18 A. Probably around 2001. Late 2000,</p> <p>19 early 2001.</p> <p>20 Q. And beyond that, did you have any</p> <p>21 other jobs with the DEA?</p> <p>22 A. Yes. In -- I was -- in 2002, I was</p> <p>23 transferred back to the Detroit field division</p> <p>24 as assistant special agent in charge,</p> <p>25 overseeing enforcement groups, HIDTA, the high</p>

<p style="text-align: right;">Page 389</p> <p>1 intensity drug -- high intensity drug</p> <p>2 trafficking area groups and also</p> <p>3 administration.</p> <p>4 Q. All right. And as we continue, Mr.</p> <p>5 Rannazzisi, to look at your background, how --</p> <p>6 what was your next job within DEA beyond that?</p> <p>7 A. In 2004, I was transferred back to</p> <p>8 DEA headquarters as a deputy director to the</p> <p>9 office of diversion control.</p> <p>10 Q. And where is DEA headquarters?</p> <p>11 A. In Arlington, Virginia.</p> <p>12 Q. So a suburb of Washington, D.C.?</p> <p>13 A. Yes, sir.</p> <p>14 Q. All right. Deputy director to the</p> <p>15 office of diversion control. What were your</p> <p>16 job responsibilities there?</p> <p>17 A. I was the number two person to the</p> <p>18 deputy assistant administrator, at the time was</p> <p>19 Bill Walker and my day-to-day responsibilities</p> <p>20 were to review cases, make sure Mr. Walker had</p> <p>21 the information he -- that was required for him</p> <p>22 to make policy decisions, reviewing documents,</p> <p>23 just basically ensuring that the office ran</p> <p>24 smoothly under his control.</p> <p>25 Q. And is that the ultimate job that</p>	<p style="text-align: right;">Page 391</p> <p>1 or what was your next job after that?</p> <p>2 A. In 2005, Mr. Walker was deployed,</p> <p>3 military service, and so the administrator</p> <p>4 asked me to take over the office of diversion</p> <p>5 control in addition to doing my duties as</p> <p>6 deputy chief of enforcement operations. And</p> <p>7 that was from about July of 2005 to January of</p> <p>8 2006.</p> <p>9 Q. Okay. What was your next job within</p> <p>10 the company or company -- within the</p> <p>11 government, the DEA?</p> <p>12 A. In 2006, Administrator Tandy asked</p> <p>13 me to take the permanent deputy assistant</p> <p>14 administrator job in the office of diversion</p> <p>15 control. I believe that was because Mr.</p> <p>16 Walker's time in the military was extended</p> <p>17 quite a bit and they didn't want to leave it as</p> <p>18 a part-time job. They wanted to fill it.</p> <p>19 Q. All right. And what was your next</p> <p>20 job after that?</p> <p>21 A. Retirement.</p> <p>22 Q. And so that took you up through</p> <p>23 retirement?</p> <p>24 A. Yes.</p> <p>25 Q. Now I want to talk about since</p>
<p style="text-align: right;">Page 390</p> <p>1 you held? Did you keep that to retirement or</p> <p>2 something else?</p> <p>3 A. I was only in that position for</p> <p>4 about three months and then I was transferred</p> <p>5 to the deputy chief of enforcement operations.</p> <p>6 Q. And so is this still around '04 or</p> <p>7 so?</p> <p>8 A. Yes, September of '04.</p> <p>9 Q. And you became the deputy chief of</p> <p>10 -- what did you call it, enforcement?</p> <p>11 A. Office of enforcement operations.</p> <p>12 Q. And what did you do as that?</p> <p>13 A. I was the -- behind the chief of</p> <p>14 enforcement operations, we controlled all</p> <p>15 enforcement operations in the DEA worldwide.</p> <p>16 We oversaw all the enforcement.</p> <p>17 Q. So the DEA, and we may later look at</p> <p>18 the DEA budget. The DEA has reached where?</p> <p>19 A. 66 countries, over 66 countries in</p> <p>20 the world plus throughout the United States, 21</p> <p>21 field divisions throughout the United States.</p> <p>22 Q. All right. And you were the deputy</p> <p>23 chief for enforcement?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And how long did you keep that job,</p>	<p style="text-align: right;">Page 392</p> <p>1 retirement, things that you've done, but before</p> <p>2 I do that, so that the jury can put this into a</p> <p>3 context, would you help us understand what</p> <p>4 diversion -- why is diversion relevant in the</p> <p>5 opioid litigation?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 MR. EPPICH: Objection.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. To you?</p> <p>10 A. Diversion is relevant because as</p> <p>11 these opioids, these tablets, liquids,</p> <p>12 whatever, move into the illicit marketplace,</p> <p>13 they cause harm to the general public.</p> <p>14 Overdoses, deaths, you know, are because</p> <p>15 diversion exists, and if diversion or even a</p> <p>16 small amount of diversion could cause a serious</p> <p>17 amount of harm in the communities where the</p> <p>18 diversion is occurring.</p> <p>19 Q. All right. And so did you have</p> <p>20 frontline responsibility and observation and</p> <p>21 ability to learn and understand about the</p> <p>22 perils of diversion?</p> <p>23 MS. McCLURE: Objection.</p> <p>24 THE WITNESS: Yes, sir.</p> <p>25 BY MR. LANIER:</p>



<p style="text-align: right;">Page 393</p> <p>1 Q. Since you retired, and we will talk 2 about why you retired shortly, but since you 3 retired, what have you done? 4 MS. MAINIGI: Objection. 5 THE WITNESS: I took time off, you 6 know, quite a few months and then I was working 7 with a tech company that was basically trying 8 to create software to help the diversion -- to 9 help identify diversion. 10 In December of 2000 -- I guess it 11 was December 2016, I went to work for the tech 12 company sometime in 2016, I believe it was May 13 of 2016. 14 In December of 2016, I underwent 15 heart surgery and I was -- I basically came 16 back to the tech company for a very small brief 17 period of time because of what was going on 18 health-wise, I left the tech company, and then 19 I really -- most of my time was spent helping 20 -- helping people in the opioid litigation. 21 BY MR. LANIER: 22 Q. All right. So you are what is 23 called a consultant for folks; is that fair? 24 A. Yes. 25 MS. McCLURE: Objection.</p>	<p style="text-align: right;">Page 395</p> <p>1 Q. Sometimes you get paid to give 2 speeches? 3 A. Yes, sir. 4 Q. Sometimes you give speeches for 5 free? 6 A. Yes, sir. It's groups where 7 families have lost children or lost loved ones. 8 Those are free. I generally just ask them to 9 pay for my way out and back. Law enforcement, 10 free, except again, if they pay my way out and 11 back. 12 Pharmacy -- some pharmacy groups, 13 especially if it is, like, a state, they are 14 doing -- if they are doing continuing 15 education, I will do those for free as well. 16 Q. What do you speak about? 17 A. Generally my speeches are tailored 18 to what the audience, what they are interested 19 in. Sometimes I will speak about the overall 20 opioid crisis where we will just talk about, 21 you know, how it occurred, historically what 22 happened. 23 For pharmacists, I generally stay 24 towards corresponding responsibility, helping 25 the states and the pharmacists understand what</p>
<p style="text-align: right;">Page 394</p> <p>1 BY MR. LANIER: 2 Q. And as a consultant, do you consult 3 with legal teams for example? 4 A. Yes, sir. 5 Q. What do you -- and I've never hired 6 you but I would assume some different lawyers 7 who may have litigation have. What do you 8 charge as a consultant? 9 A. \$500 an hour. 10 Q. Are you getting paid for your 11 testimony today? 12 A. No, sir, except for my witness fee. 13 Q. Which is? 14 A. \$56. 15 Q. Per hour? 16 A. No. I think I got a check for \$56. 17 Q. You got 56 bucks for a couple of 18 days of your time? 19 A. Yes, sir. 20 Q. That is like jury duty. 21 MR. STEPHENS: Objection. 22 BY MR. LANIER: 23 Q. You have given speeches, I saw that 24 in one of the write-ups, you gave? 25 A. Yes.</p>	<p style="text-align: right;">Page 396</p> <p>1 corresponding responsibility is and what is 2 required of a pharmacist with prescriptions and 3 what they are supposed to do, how they are 4 supposed to resolve red flags. 5 A lot of times, I go and speak and 6 then just help the parents, talk to parents, 7 you know, who have lost kids, talk to parents 8 who just want to tell their story which, you 9 know, is definitely -- it's tragic, all those 10 kids and all those people. Very tragic. 11 Q. All right. That's going to do our 12 first stop on the road. So we have got your 13 background information here. 14 It is going to be relevant as we go 15 along, but I want to move to the next stop on 16 the road, which is what I call the 60 Minute 17 stop. Okay? 18 A. Yes, sir. 19 MR. STEPHENS: Object to form. 20 BY MR. LANIER: 21 Q. All right. Let's move to the 60 22 Minute stop and we will get a sheet set up for 23 that stop and talk to you about that. Okay? 24 A. Yes, sir. 25 Q. First set of questions here, how on</p>

<p style="text-align: right;">Page 397</p> <p>1 earth -- by the way, this 60 Minutes, that the 2 TV show, right? 3 A. Yes, sir. 4 Q. That's the one that's got on those 5 ads, the ticking clock, tick, tick, tick, tick, 6 tick? 7 A. Yes, sir. 8 Q. All right. What -- how did you even 9 get involved to get on 60 Minutes? How did 10 that come about? 11 MS. McCLURE: Objection. 12 THE WITNESS: I -- it basically 13 didn't start with 60 Minutes. It started with 14 reporters calling asking certain things about 15 the opioid crisis and I never -- if a reporter 16 called and asked questions, I felt obligated to 17 answer them. 18 As more reporters called, reporters 19 obviously read other reports and they started 20 -- Washington Post called and they were looking 21 at a story and they asked several questions and 22 I explained how things happened and how things 23 occurred in the opioid crisis, and they were 24 very interested in the Insurance Patient Access 25 Act and one thing led to another and they</p>	<p style="text-align: right;">Page 399</p> <p>1 frankly, they saw -- they saw my testimony 2 before Congress and it wasn't difficult to see 3 in my testimony before Congress, you know, it 4 was -- there was a lot of -- there was quite a 5 bit of tension between what DEA was doing and 6 what Congress wanted us to do. 7 BY MR. LANIER: 8 Q. All right. If we -- I don't want to 9 go back necessarily to your background, but one 10 of the things that you did when you worked for 11 the DEA that we have left out is your testimony 12 to Congress. 13 You testified to Congress; is that 14 right? 15 A. Yes, sir. 16 Q. Do you recall how many times you got 17 called on to come give testimony to the United 18 States Congress? 19 A. I believe it's right around 33, 20 maybe a little more. 21 Q. So 33 times you were selected I 22 assume, or were you invited or how does that 23 work? 24 MR. STEPHENS: Objection. 25 THE WITNESS: Sometimes I was</p>
<p style="text-align: right;">Page 398</p> <p>1 started writing about different things and the 2 interplay between, you know, Congress and other 3 entities. 4 From there, 60 Minutes started 5 working with the Washington Post and we ended 6 up on 60 Minutes. 7 BY MR. LANIER: 8 Q. Was not something you sought out? 9 A. No, sir. 10 MR. STEPHENS: Object to form. 11 BY MR. LANIER: 12 Q. Why you? Do you know? 13 MR. STEPHENS: Object to form. 14 BY MR. LANIER: 15 Q. Let me ask it this way. Let me 16 re-ask the question. 17 In your mind, what made you 18 particularly important or useful for a 60 19 Minutes story? 20 MS. MAINIGI: Objection. 21 MR. EPPICH: Objection. 22 THE WITNESS: I think because I was 23 -- I was there during that time period. I was 24 there during the time period where the deaths 25 increased or the overdoses increased, and quite</p>	<p style="text-align: right;">Page 400</p> <p>1 requested, other times, just a general witness 2 was requested to the department and DEA and I 3 was offered as the witness. 4 BY MR. LANIER: 5 Q. You got served up to go testify? 6 MR. EPPICH: Objection. 7 BY MR. LANIER: 8 Q. Was that kind of a scary thing to do 9 at least the first few times? 10 A. I think the first -- first couple of 11 times, it was a little unnerving but as you do 12 it, just like testifying in court. Once you -- 13 you know. It is not a -- the difference is the 14 United States Congress, there is really no 15 rules. I mean, they can pretty much ask 16 whatever they want and it could get -- it could 17 get a little adversarial sometimes. 18 Q. I mean, it's not -- when you go to 19 court, you can drive and park in a garage 20 nearby. There is not, like, parking right at 21 the U.S. Congress, is there? 22 MR. EPPICH: Objection. 23 THE WITNESS: No. 24 BY MR. LANIER: 25 Q. How -- where would you be giving</p>

<p style="text-align: right;">Page 401</p> <p>1 this testimony?</p> <p>2 A. Depending on what committee it was</p> <p>3 and the committee offices, the different</p> <p>4 buildings that surround Congress, that surround</p> <p>5 the Capitol, generally we go there, we would be</p> <p>6 dropped off and then picked up.</p> <p>7 Q. All right. Okay. So we are talking</p> <p>8 about this in terms of 60 Minutes, that they --</p> <p>9 you had been there. You were at the DEA you</p> <p>10 said. You said that they had probably seen</p> <p>11 your testimony before Congress and some things</p> <p>12 like that.</p> <p>13 What was the story that you were</p> <p>14 there to testify about?</p> <p>15 MR. STEPHENS: Object to form.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. Not testify. Let me re-ask that.</p> <p>18 What was the story behind the 60</p> <p>19 Minutes episode as you understood it?</p> <p>20 MR. STEPHENS: Same objection.</p> <p>21 MR. EPPICH: Objection.</p> <p>22 THE WITNESS: Congress had passed a</p> <p>23 bill called the Insurance Patient Access Act</p> <p>24 and that bill in my opinion, hampered DEA's</p> <p>25 ability to go after large manufacturers and</p>	<p style="text-align: right;">Page 403</p> <p>1 distributors because of the way the bill was</p> <p>2 written.</p> <p>3 BY MR. LANIER:</p> <p>4 Q. When you say, "go after</p> <p>5 manufacturers and distributors," are we talking</p> <p>6 about including on the opioid matters?</p> <p>7 A. Yes, sir.</p> <p>8 MR. EPPICH: Objection.</p> <p>9 MS. MAINIGI: Objection. Form.</p> <p>10 THE WITNESS: Any controlled</p> <p>11 substance, it doesn't matter, but yes, opioids.</p> <p>12 BY MR. LANIER:</p> <p>13 Q. Was your concern in part -- at least</p> <p>14 in large part, the opioid crisis?</p> <p>15 MR. EPPICH: Objection.</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 THE WITNESS: Opioids and</p> <p>18 benzodiazepines at that point, yes.</p> <p>19 BY MR. LANIER:</p> <p>20 Q. And what do you mean by, "stop the</p> <p>21 ability of the DEA to go after?" What do you</p> <p>22 mean by "go after?"</p> <p>23 A. We couldn't investigate</p> <p>24 manufacturers and distributors for diversion,</p> <p>25 just like pharmacists and doctors. The</p>
<p style="text-align: right;">Page 402</p> <p>1 distributors with a tool that we had called an</p> <p>2 immediate suspension order. It also weakened</p> <p>3 DEA's ability to do their administrative job,</p> <p>4 to stop the flow of controlled substances into</p> <p>5 the illicit marketplace quickly.</p> <p>6 BY MR. LANIER:</p> <p>7 Q. Have I written this accurately, that</p> <p>8 from your understanding, Congress passed a bill</p> <p>9 that you, Joe Rannazzisi thought hampered the</p> <p>10 DEA's ability to do its job stopping the flow</p> <p>11 of drugs?</p> <p>12 A. Drugs -- the controlled substances</p> <p>13 into the illicit marketplace.</p> <p>14 Q. That's diversion?</p> <p>15 A. That would be diversion, yes.</p> <p>16 Q. Had you spoken out against this</p> <p>17 bill?</p> <p>18 MR. EPPICH: Objection.</p> <p>19 THE WITNESS: Yes. Beginning --</p> <p>20 when the bill was initially introduced the end</p> <p>21 of '13, early '14, when I was still in my</p> <p>22 former position, I was very vocal about what</p> <p>23 the consequences of the bill would be, even in</p> <p>24 the earliest form, that it would decrease DEA's</p> <p>25 ability to go after these manufacturers and</p>	<p style="text-align: right;">Page 404</p> <p>1 difference is, when we made a decision that</p> <p>2 there was an imminent threat, imminent danger</p> <p>3 to public health and safety, we had a tool at</p> <p>4 our disposal to stop, to do an immediate</p> <p>5 suspension on a DEA registration and while</p> <p>6 still affording due process, stopping the</p> <p>7 action, stopping the hemorrhaging of drugs into</p> <p>8 a community or into a state, and what we were</p> <p>9 worried about was, we could still investigate</p> <p>10 but the provisions of the bill that were passed</p> <p>11 now prevented us from using that immediate</p> <p>12 suspension tool against the upstream</p> <p>13 manufacturers and distributors and it also gave</p> <p>14 them -- it was almost like a get out of jail</p> <p>15 free card.</p> <p>16 They could basically submit a</p> <p>17 corrective action plan and at that point in</p> <p>18 time, we would have to determine whether to</p> <p>19 stop the administrative action from occurring</p> <p>20 and allowing them to continue, and the whole</p> <p>21 idea behind this was, if we did an order to</p> <p>22 show cause or administrative inspection or an</p> <p>23 immediate suspension order, the fact was, that</p> <p>24 we didn't believe, we didn't have confidence</p> <p>25 that those manufacturers or distributors would</p>

<p style="text-align: right;">Page 405</p> <p>1 continue to operate without diverting drugs.</p> <p>2 Q. You have used a lot of terms that</p> <p>3 are -- perhaps depending upon the level of the</p> <p>4 trial, at what point we are, that may be</p> <p>5 unusual terms for some people.</p> <p>6 So at the risk of making you be an</p> <p>7 educator, will you help us understand some of</p> <p>8 these terms, please?</p> <p>9 A. Sure.</p> <p>10 Q. First of all, what is a controlled</p> <p>11 substance?</p> <p>12 A. A controlled substance is a</p> <p>13 substance that is under one of five schedules</p> <p>14 in the Controlled Substances Act.</p> <p>15 Q. There is an actual act passed by</p> <p>16 Congress called the Controlled Substances Act?</p> <p>17 A. Yes, sir. It's under Title 21</p> <p>18 United States Code 800 throughout -- in fact,</p> <p>19 scheduling actions, I believe are 21 USC 811 or</p> <p>20 12. I think it was 811.</p> <p>21 And the Controlled Substances Act</p> <p>22 set out five schedules. Schedule I being the</p> <p>23 most abused drugs that have no medical use.</p> <p>24 Schedule II would be drugs that have a medical</p> <p>25 use but they have a high incidence of physical,</p>	<p style="text-align: right;">Page 407</p> <p>1 Q. So it would be more than addiction</p> <p>2 but it would include addiction?</p> <p>3 A. Yeah.</p> <p>4 Q. Physical, psychological abuse?</p> <p>5 A. Dependence.</p> <p>6 Q. Dependence. Sorry. Dependence.</p> <p>7 And that would include addiction?</p> <p>8 MR. EPPICH: Objection.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. LANIER:</p> <p>11 Q. Are opioids in one of these -- are</p> <p>12 opioids a controlled substance?</p> <p>13 A. Yes.</p> <p>14 Q. What type of a controlled substance</p> <p>15 are opioids?</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 BY MR. LANIER:</p> <p>18 Q. What category?</p> <p>19 A. In Schedule I, heroin is an opioid.</p> <p>20 It doesn't have a medical use but it is an</p> <p>21 opioid and it's found in the illicit</p> <p>22 marketplace.</p> <p>23 Schedule II, you have drugs like</p> <p>24 oxycodone, hydrocodone, fentanyl. I mean,</p> <p>25 those were the -- those were the big ones.</p>
<p style="text-align: right;">Page 406</p> <p>1 psychological dependence.</p> <p>2 Q. All right. I'm going to pause</p> <p>3 there. There are five, but these are two that</p> <p>4 help us out.</p> <p>5 Schedule II, you said drugs that</p> <p>6 have a medical use?</p> <p>7 A. Yes, sir.</p> <p>8 Q. But have a high incidence of</p> <p>9 physical logical dependence?</p> <p>10 MR. EPPICH: Object to form.</p> <p>11 BY MR. LANIER:</p> <p>12 Q. Explain that, please.</p> <p>13 MR. EPPICH: Object to form.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. Go ahead.</p> <p>16 A. It's physical or psychological --</p> <p>17 Q. Thank you.</p> <p>18 A. -- dependence.</p> <p>19 Q. All right. So have a medical use,</p> <p>20 but a high incidence -- is that what we would</p> <p>21 commonly just call addiction?</p> <p>22 MS. McCLURE: Objection.</p> <p>23 THE WITNESS: You can -- you could</p> <p>24 place addiction into that.</p> <p>25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 408</p> <p>1 Q. And are those what we could commonly</p> <p>2 call opioids?</p> <p>3 A. Yes, sir. Morphine is -- morphine</p> <p>4 is in Schedule II as well. Morphine is a</p> <p>5 natural product so it's included in an opioid,</p> <p>6 as an opioid, but it's actually an opiate.</p> <p>7 All the rest of those drugs are</p> <p>8 semisynthetic or synthetic drugs. Morphine is</p> <p>9 a natural product that's derived from the</p> <p>10 poppy.</p> <p>11 Q. So what, under the Controlled</p> <p>12 Substances Act, what happens to these</p> <p>13 controlled -- these opioids that are Category 2</p> <p>14 controlled substances?</p> <p>15 MS. McCLURE: Object to form.</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 MR. EPPICH: Objection. Vague.</p> <p>18 THE WITNESS: I'm sorry. Could you</p> <p>19 --</p> <p>20 BY MR. LANIER:</p> <p>21 Q. Yeah, yeah, yeah. It may be too</p> <p>22 vague.</p> <p>23 We got to this because you said that</p> <p>24 the bill made it more difficult to go after</p> <p>25 manufacturers and distributors, you lost the</p>

<p style="text-align: right;">Page 409</p> <p>1 tool to suspend and stop the actions, in 2 essence gave the companies a get out of jail 3 free card. 4 A. Yes, sir. 5 MR. EPPICH: Objection. 6 BY MR. LANIER: 7 Q. So with that as the background, I 8 said what are the controlled substances and you 9 started telling us about the Act. What is it 10 that the DEA had the ability to do? 11 MR. EPPICH: Objection. Form. 12 MS. MAINIGI: Objection. 13 MS. McCLURE: Objection. 14 THE WITNESS: If we identified in 15 the supply chain diversion, moving drugs into, 16 you know, out of the legitimate supply chain to 17 an environment or climate of diversion where 18 people are abusing the drugs that they are 19 seeking or they're getting from that supply 20 chain, at that point in time, we could stop it. 21 We, you know, the administrator 22 makes a determination that the activity of 23 diversion that is occurring is an imminent 24 danger to public health and safety and at that 25 point in time, we execute, issue an immediate</p>	<p style="text-align: right;">Page 411</p> <p>1 medication, they are -- that pharmacy is a DEA 2 registrant. Not the pharmacist, but the 3 pharmacy. 4 The hospital is a DEA registrant, a 5 manufacturer is a DEA registrant, a distributor 6 is a DEA registrant, a nurse is not a DEA 7 registrant unless they are a prescribing nurse, 8 a practitioner, in which case they would be a 9 DEA registrant. 10 So the Controlled Substances Act and 11 the regulations specifically outline who is a 12 registrant and what their requirements are to 13 maintain a registration and all DEA registrants 14 must maintain effective controls against 15 diversion. That's 1301.71. 16 Q. All right. So if the DEA registrant 17 is someone who is registered to handle opioids, 18 for example, we are segregating out opioids, 19 are manufacturers registrants, manufacturers of 20 opioids? 21 A. Yes, sir. 22 Q. Are the distributors of those 23 opioids from the manufacturers to the 24 pharmacies or hospitals or whatever -- 25 MS. MAINIGI: Objection. Form.</p>
<p style="text-align: right;">Page 410</p> <p>1 suspension order with an order to show cause 2 and that would stop them from doing any 3 controlled substance business, so that would 4 stop them from distributing oxycodone, 5 hydrocodone, fentanyl downstream. That's how 6 it would work. 7 BY MR. LANIER: 8 Q. So we will get to this in more 9 detail later, but did the Controlled Substances 10 Act put any responsibilities on the 11 manufacturers, the distributors, the retailers? 12 MR. EPPICH: Objection. 13 THE WITNESS: Yes, sir. Every 14 registrant, every DEA registrant must maintain 15 effective controls against diversion. 16 BY MR. LANIER: 17 Q. All right. You just used another 18 word I want to make sure we define, a 19 registrant. What do you mean -- what is a 20 registrant? 21 A. A DEA registrant is a controlled 22 substance handler, a dispenser, a distributor 23 so a practitioner that prescribes is a DEA 24 registrant, if he prescribes controlled 25 substances. A pharmacy that dispenses</p>	<p style="text-align: right;">Page 412</p> <p>1 BY MR. LANIER: 2 Q. -- are they registrants? 3 A. Yes, sir. If they are dealing with 4 controlled substances, absolutely. 5 Q. And if the sellers are selling 6 opioids, are they registrants? 7 A. The sellers being the pharmacies? 8 Q. Yes. 9 A. Yes. 10 Q. And then prescribers of opioids, 11 would they be registrants? 12 A. Yes. 13 Q. Hospitals that dispense opioids, 14 would they be registrants? 15 A. Yes. 16 Q. In other words, can just anyone on 17 the street or any company or any business, can 18 the Kroger's grocery store outside of the 19 pharmacy section -- or maybe not Kroger's, 20 let's say mom and pop grocery stores, can 21 anyone handle or sell opioids openly? 22 MR. EPPICH: Objection. 23 THE WITNESS: No, sir. You have to 24 have a controlled substance registration. You 25 have to be licensed by the state and registered</p>



<p style="text-align: right;">Page 413</p> <p>1 with DEA to handle a controlled substance.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. Is -- all right. These are good</p> <p>4 definitions.</p> <p>5 Here is what I would like to do now.</p> <p>6 I have got some quotes that you gave in the 60</p> <p>7 Minute story and I want to ask you about some</p> <p>8 of those quotations. Okay?</p> <p>9 A. Sure.</p> <p>10 Q. So what we will do is, we will come</p> <p>11 up here and we'll put those quotation across</p> <p>12 the top here.</p> <p>13 First of all, you spoke about the</p> <p>14 three largest distributors. Explain to the</p> <p>15 jury what a distributor is.</p> <p>16 MR. STEPHENS: Object to form.</p> <p>17 THE WITNESS: A distributor obtains</p> <p>18 drugs from a manufacturer, controlled</p> <p>19 substances from a manufacturer, and then</p> <p>20 distributes -- distributes those controlled</p> <p>21 substances downstream to pharmacies, hospitals,</p> <p>22 and in some cases nursing homes, to --</p> <p>23 basically distributing to DEA registrants</p> <p>24 that -- outlets that provide patient care that</p> <p>25 are allowed to maintain stocks of controlled</p>	<p style="text-align: right;">Page 415</p> <p>1 Q. So that I am real clear, I am</p> <p>2 reading word for word what you said on 60</p> <p>3 Minutes and I am just asking you to explain</p> <p>4 what you said already publicly on 60 Minutes.</p> <p>5 A. I believe that that is accurate,</p> <p>6 based -- there is actually -- that was based on</p> <p>7 a document that was done, industry document,</p> <p>8 where they were talking about 80 to 90 percent</p> <p>9 of the revenue for downstream sales were -- 80</p> <p>10 to 90 percent of the revenue -- I think it was</p> <p>11 85 to 90 percent of the revenue of downstream</p> <p>12 sales were based on Cardinal, McKesson and</p> <p>13 AmerisourceBergen.</p> <p>14 Q. Did you have experience interacting</p> <p>15 with those distributors?</p> <p>16 MR. EPPICH: Object to form.</p> <p>17 THE WITNESS: Personally? Maybe two</p> <p>18 of the three, but for the most part, my staff</p> <p>19 -- my staff interacted with all three of those</p> <p>20 companies.</p> <p>21 BY MR. LANIER:</p> <p>22 Q. You also said, this is an industry</p> <p>23 that is out of control. What they want to do</p> <p>24 is, what -- is do what they want to do and not</p> <p>25 worry about what the law is and if they follow</p>
<p style="text-align: right;">Page 414</p> <p>1 substances.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. You said, and I'm going to quota you</p> <p>4 here -- let me put it up so that you can see</p> <p>5 it.</p> <p>6 The three largest distributors are</p> <p>7 Cardinal Health, McKesson and</p> <p>8 AmerisourceBergen. They control probably 85 or</p> <p>9 90 percent of the drugs going downstream.</p> <p>10 Did that reflect what you believed</p> <p>11 to be the truth?</p> <p>12 MR. EPPICH: Object to the form.</p> <p>13 Object to the fact that we are not</p> <p>14 seeing the citation or the identification of</p> <p>15 where this quote is coming from.</p> <p>16 MR. BENNETT: I will object to scope</p> <p>17 and remind Mr. Rannazzisi that you are not</p> <p>18 allowed to base personal opinions on nonpublic</p> <p>19 facts or information you've acquired in</p> <p>20 performance of your official duties.</p> <p>21 To the extent that you can answer</p> <p>22 this question outside of nonpublic facts or</p> <p>23 information you acquired with the DEA, you may</p> <p>24 answer.</p> <p>25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 416</p> <p>1 the law and drug supply -- and if they don't</p> <p>2 follow the law and drug supply, people die,</p> <p>3 that's just it, people die.</p> <p>4 Do you remember saying that on 60</p> <p>5 Minutes?</p> <p>6 A. Yes, sir.</p> <p>7 MR. STEPHENS: Object to form.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. Was it an industry, based on your</p> <p>10 experience and opinion, that was out of</p> <p>11 control?</p> <p>12 MR. EPPICH: Object to form.</p> <p>13 MR. BENNETT: Objection. Scope.</p> <p>14 Same instruction.</p> <p>15 THE WITNESS: Yes, sir.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. Explain what you mean by that,</p> <p>18 please.</p> <p>19 A. I think for starters, we -- when we</p> <p>20 saw the initial problem, we sat down and</p> <p>21 explained to them what the requirements were</p> <p>22 under the law. We kind of refreshed their</p> <p>23 recollection on what the regulations were and</p> <p>24 what their requirements were under the statute</p> <p>25 and under the regulations, under 1301.74 and</p>



<p style="text-align: right;">Page 417</p> <p>1 also under A23 -- 21 USC A23.  2 We sent letters, we tried to push  3 them, enforce them into compliance, but they  4 just -- they wouldn't comply, and my  5 observations were that when they decided they  6 didn't want to comply, they just used influence  7 to create a law or to change a law, so yeah, I  8 pretty much believed that they were out of  9 control.  10 BY MR. LANIER:  11 Q. All right. What I would like you to  12 do is explain to us, please, what the  13 requirements were for compliance.  14 What -- what was industry supposed  15 to be doing --  16 MS. MAINIGI: Objection. Form.  17 BY MR. LANIER:  18 Q. -- that you thought they weren't  19 doing?  20 A. Well, first of all, all DEA  21 registrants are required to maintain effective  22 controls against diversion. Now, when you look  23 at the definition of maintaining effective  24 controls against diversion, that includes  25 security provisions and one of the security</p>	<p style="text-align: right;">Page 419</p> <p>1 when looking -- I think the regulations are  2 very specific. It says when an administrator  3 is looking to see or to determine that the  4 registrant is maintaining effective controls  5 against diversion, the administrator is  6 directed to the regulations in 1301.72 to 75, I  7 think it is, and 1301.74 -- 1301.74(b) is the  8 provision that requires suspicious order  9 reporting, 1301.  10 Q. So the registrants, these  11 manufacturers, distributors, sellers, et al.,  12 the registrants are required to report a  13 suspicious order?  14 A. Yes, they are required to maintain a  15 system that identifies suspicious orders and  16 then they are supposed to report those  17 suspicious orders when discovered.  18 Q. So in addition to reporting one, you  19 said they are supposed to maintain a system to  20 detect it?  21 A. Yes.  22 Q. What type of a system did -- would  23 DEA -- would the DEA dictate that system or --  24 explain that to us, please.  25 MR. EPPICH: Object to form.</p>
<p style="text-align: right;">Page 418</p> <p>1 provisions was to create and operate a system  2 that identifies suspicious orders to the  3 registrant.  4 A suspicious order in the regulation  5 is an order of unusual size, frequency or  6 substantially deviating from the normal  7 ordering pattern. The suspicious order is  8 supposed to be reported to DEA when found, when  9 discovered.  10 Q. All right. I'm going to break this  11 apart into subparts to make sure that I have  12 got it.  13 So what compliance is required, was  14 my question, and you started out by saying all  15 of the registrants.  16 So we remember, a registrant you  17 said is someone who is registered to handle --  18 we are talking opioids here, so it would  19 include manufacturers and distributors and  20 sellers, prescribers and hospitals?  21 A. Uh-huh.  22 Q. All registrants are required to  23 maintain effective control against diversion.  24 How?  25 A. Well, again, in the regulations,</p>	<p style="text-align: right;">Page 420</p> <p>1 THE WITNESS: The systems that are  2 -- that are in place, that's a business  3 decision. The company must determine what --  4 what system is correct for their business model  5 or how they are doing business, as long as it  6 identifies, you know, the definition of a  7 suspicious order, an order of unusual size,  8 frequency or substantially deviating from the  9 normal ordering pattern, that is what the  10 requirement is, and the -- it was the  11 industry's or the registrant's system so they  12 were to create that system.  13 BY MR. LANIER:  14 Q. All right. So it's a business  15 decision based upon, I guess it might be  16 different for a manufacturer than a distributor  17 than a seller, et cetera?  18 MR. EPPICH: Object to form.  19 MR. STEPHENS: Objection.  20 MS. MAINIGI: Object to form.  21 THE WITNESS: Yes.  22 BY MR. LANIER:  23 Q. But whatever decision they make, was  24 it required that they identify these suspicious  25 orders?</p>

<p style="text-align: right;">Page 421</p> <p>1 MR. EPPICH: Object to form.</p> <p>2 THE WITNESS: They must identify the</p> <p>3 suspicious orders and report them.</p> <p>4 BY MR. LANIER:</p> <p>5 Q. All right. You have now used</p> <p>6 another word that I want to make sure we</p> <p>7 define, a suspicious order.</p> <p>8 What is a suspicious order?</p> <p>9 A. By definition, a suspicious order is</p> <p>10 a controlled substance order that is of unusual</p> <p>11 size, unusual frequency or substantially</p> <p>12 deviating from the normal ordering pattern.</p> <p>13 Q. A substantial deviation from normal</p> <p>14 pattern?</p> <p>15 A. Yes.</p> <p>16 Q. Does it have to be all three of</p> <p>17 those?</p> <p>18 A. No.</p> <p>19 MR. EPPICH: Object to form.</p> <p>20 THE WITNESS: No, it doesn't.</p> <p>21 BY MR. LANIER:</p> <p>22 Q. Two of them?</p> <p>23 MR. EPPICH: Object to form. Calls</p> <p>24 for a legal conclusion.</p> <p>25 MS. McCLURE: Object to form.</p>	<p style="text-align: right;">Page 423</p> <p>1 doing due diligence to make a determination and</p> <p>2 resolving suspicions. So it was the position</p> <p>3 that those orders should not be shipped unless</p> <p>4 the suspicions were resolved.</p> <p>5 BY MR. LANIER:</p> <p>6 Q. So unless a full due diligence</p> <p>7 resolved suspicions, you don't ship?</p> <p>8 MS. McCLURE: Objection to form.</p> <p>9 THE WITNESS: That's correct.</p> <p>10 MR. EPPICH: Objection. Leading.</p> <p>11 BY MR. LANIER:</p> <p>12 Q. All right. Now, your statement then</p> <p>13 to 60 Minutes was, this industry's out of</p> <p>14 control, what they want to do is do what they</p> <p>15 want to do and not worry about what the law is.</p> <p>16 What, that you can tell us about,</p> <p>17 did you base that opinion on?</p> <p>18 MR. STEPHENS: Object to form.</p> <p>19 MR. EPPICH: Objection to the Touhy</p> <p>20 authorization to the extent you are calling for</p> <p>21 any information that he learned during his time</p> <p>22 at the DEA.</p> <p>23 MR. BENNETT: Mr. Rannazzisi has</p> <p>24 been authorized to disclose his personal</p> <p>25 recollection regarding your interactions with</p>
<p style="text-align: right;">Page 422</p> <p>1 BY MR. LANIER:</p> <p>2 Q. Based upon the practice -- I am</p> <p>3 talking to you. I know you are a lawyer, but I</p> <p>4 am talking to you based upon the practice of</p> <p>5 the DEA and what they would enforce.</p> <p>6 A. It doesn't -- it doesn't have to be</p> <p>7 all three. It doesn't have to be two of the</p> <p>8 three. Generally, it is multiple, but for the</p> <p>9 most part, it could be just one.</p> <p>10 Q. Okay. So the company -- the</p> <p>11 registrants are required to maintain effective</p> <p>12 control to detect suspicious orders and</p> <p>13 identify them.</p> <p>14 Who do they report these suspicious</p> <p>15 orders to?</p> <p>16 A. The Drug Enforcement Administration.</p> <p>17 Q. Do they simply report them or does</p> <p>18 it have any implications for whether or not</p> <p>19 they ship them?</p> <p>20 MR. EPPICH: Object to the form.</p> <p>21 THE WITNESS: We -- we took the</p> <p>22 position that if you're maintaining effective</p> <p>23 controls against diversion and you have a</p> <p>24 suspicious order, you wouldn't ship that</p> <p>25 because by definition, it's suspicious, without</p>	<p style="text-align: right;">Page 424</p> <p>1 manufacturers and distributors of opioids</p> <p>2 during your tenure at the office of diversion</p> <p>3 control and your recollection of communication</p> <p>4 with those registrants regarding suspicious</p> <p>5 orders.</p> <p>6 So you are authorized to talk about</p> <p>7 those communications and interactions.</p> <p>8 However, you are not authorized to disclose any</p> <p>9 information regarding nonpublic specific DEA</p> <p>10 investigations or activities.</p> <p>11 THE WITNESS: Okay. Thank you.</p> <p>12 Initially in 2005, we sat down with</p> <p>13 the three major distributors and explained to</p> <p>14 them what the diversion problem was at that</p> <p>15 point in time and what they needed to do. We</p> <p>16 reminded them that they must file suspicious</p> <p>17 order reports with the DEA.</p> <p>18 We gave them specific instances of</p> <p>19 -- of orders for each distributor that would be</p> <p>20 deemed suspicious, that should have been deemed</p> <p>21 suspicious, should have been reviewed,</p> <p>22 reconciled, and we explained that that is what</p> <p>23 -- not only what we expect, but that is what</p> <p>24 the law requires, what the regulation requires.</p> <p>25 And we tied it back to maintaining</p>

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1 effective controls against diversion explaining  
 2 that their -- their licenses, their DEA  
 3 registrations required them to maintain  
 4 effective controls against diversion.  
 5 After that, we sent out letters with  
 6 almost the same language explaining what the  
 7 requirements were, but it continued to happen.  
 8 It continued to not file suspicious orders or  
 9 to go around the suspicious order requirement  
 10 or creating systems where the systems looked  
 11 good but they were not executing systems as  
 12 required, and I think that is what I -- the  
 13 second round, after we served orders to show  
 14 cause and immediate suspension orders in 2007  
 15 and I guess '7 and '8 -- '6, '7 and '8, the  
 16 second round, when it still occurred, only  
 17 instead of the Internet, it was pain clinics  
 18 but the same patterns were occurring.  
 19 We took the same action against them  
 20 for doing the same things. It was a different  
 21 type of -- a different type of diversion, but  
 22 it was the same pattern of activity and they  
 23 still didn't -- they still didn't comply.  
 24 And again, when they decided that,  
 25 you know, they just didn't want to get fined

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1 anymore, they just didn't want to have their --  
 2 their registrations revoked, suspended, they  
 3 brought it to Congress and changed the law.  
 4 That's what I meant by out of control.  
 5 BY MR. LANIER:  
 6 Q. All right. And then the last part  
 7 of your statement here, if they don't follow  
 8 the law in drug supply, people die. That's  
 9 just it. People die.  
 10 Explain what you meant when you said  
 11 that.  
 12 MR. STEPHENS: Object to form.  
 13 MS. MAINIGI: Object to form.  
 14 THE WITNESS: Again, when you have  
 15 diversion and these drugs are -- are going out  
 16 into the community and getting into the wrong  
 17 hands, the drugs are being used without  
 18 supervision. The drugs are being abused. It  
 19 causes overdose, that causes death.  
 20 That is why our police officers had  
 21 to start carrying Naloxone because there were  
 22 overdoses. Some communities were overrun with  
 23 overdoses. We were losing people left and  
 24 right. In '15 or '14, we lost over 16,000  
 25 people just to the pharmaceuticals. That's

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1 what -- that's what I meant by people die.  
 2 Diversion causes death.  
 3 MR. LANIER: Okay. Can we take a  
 4 break for a moment, please. Go off the record.  
 5 THE VIDEOGRAPHER: We're going off  
 6 the record. The time is 9:52.  
 7 (A short recess was taken.)  
 8 THE VIDEOGRAPHER: We are going back  
 9 on record. Beginning Media File No. 2. The  
 10 time is 10:09.  
 11 BY MR. LANIER:  
 12 Q. Okay. Before the break, we had gone  
 13 through our roadmap, Mr. Rannazzisi, and we had  
 14 done background. We talked about the 60  
 15 Minutes and you were starting to explain some  
 16 of the background behind the 60 Minute story,  
 17 so I'm going to transition us to follow up as  
 18 our last stop on the road.  
 19 What we're going to do with follow  
 20 up is, I want to follow up with some more  
 21 information and questions about the 60 Minute  
 22 things and about what you have said, but I also  
 23 want to talk about some potential roadblocks  
 24 that have been discussed with you. Okay?  
 25 A. Yes, sir.

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1 Q. All right. In that regard then, we  
 2 were on this sheet where we were talking about  
 3 the diversion methods and I am transitioning us  
 4 to overflow or follow up so that we can make  
 5 our subsequent notes.  
 6 Specifically, you said you sent  
 7 letters in 2006 and 2007 after you had already  
 8 sat with the distributors and explained the law  
 9 and what was expected.  
 10 Do you recall that testimony?  
 11 A. Yes, sir.  
 12 Q. I'd like to show you those letters,  
 13 two of the letters at least and talk to you  
 14 about them in some detail.  
 15 So the first letter we will mark as  
 16 exhibit number -- do you remember what the next  
 17 exhibit number is? Am I safe saying Exhibit  
 18 No. 1?  
 19 All right. We're going to call this  
 20 Exhibit No. 1 and let me give you a copy of it  
 21 as well, sir.  
 22 (Deposition Exhibit 1 was marked for  
 23 identification.)  
 24 MR. LANIER: And counsel.  
 25 BY MR. LANIER:

<p style="text-align: right;">Page 429</p> <p>1 Q. So what I have got here marked as</p> <p>2 Exhibit No. 1 is U.S. Department of Justice</p> <p>3 Drug Enforcement Administration.</p> <p>4 By the way, what does that</p> <p>5 Department of Justice mean on top of DEA?</p> <p>6 MR. EPPICH: Object to form.</p> <p>7 MS. MAINIGI: Objection to form.</p> <p>8 THE WITNESS: The Drug Enforcement</p> <p>9 Administration is under the Department of</p> <p>10 Justice, United States Department of Justice.</p> <p>11 BY MR. LANIER:</p> <p>12 Q. Okay. So if we were to chart</p> <p>13 through the government and put, like, a</p> <p>14 corporate tree of the government, the DEA is</p> <p>15 under the DOJ, the Department of Justice?</p> <p>16 A. Yes, sir.</p> <p>17 Q. But the DEA here is the DEA where</p> <p>18 you were sitting as -- they moved you up</p> <p>19 through a bunch of different jobs. That was</p> <p>20 the DEA with the badge, right?</p> <p>21 MR. EPPICH: Objection.</p> <p>22 THE WITNESS: Yes, sir.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. All right. So we've got a letter</p> <p>25 here. The letter seems to be about four pages</p>	<p style="text-align: right;">Page 431</p> <p>1 record. The time is 10:13.</p> <p>2 (A short recess was taken.)</p> <p>3 THE VIDEOGRAPHER: Going back on</p> <p>4 record. Beginning Media File No. 4. The time</p> <p>5 is 10:15.</p> <p>6 BY MR. LANIER:</p> <p>7 Q. Every -- you sent this letter to</p> <p>8 every commercial entity registered with the DEA</p> <p>9 to distribute controlled substances.</p> <p>10 Are those what you defined earlier</p> <p>11 as DEA registrants?</p> <p>12 A. No. It would just be the</p> <p>13 distributors and the manufacturers.</p> <p>14 Q. All right. You referenced</p> <p>15 "industry" a few times in your testimony. Is</p> <p>16 that what industry would be to you?</p> <p>17 A. Distributors and manufacturers,</p> <p>18 yeah, that would pretty much be industry.</p> <p>19 Q. So you sent this letter to each of</p> <p>20 them. The purpose of this letter is to</p> <p>21 reiterate the responsibilities.</p> <p>22 What do you mean by reiterate?</p> <p>23 A. This letter was sent as a follow up</p> <p>24 to the face-to-face meetings we had with some</p> <p>25 of the distributors and then also to the other</p>
<p style="text-align: right;">Page 430</p> <p>1 and at the very end, it is signed by Joseph T.</p> <p>2 Rannazzisi, deputy assistant administrator,</p> <p>3 office of diversion control. Is that you?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And if we go back to the background</p> <p>6 sheet where we started with you, deputy</p> <p>7 assistant administrator, office of diversion</p> <p>8 control, this is what you were moved to</p> <p>9 permanently in 2006; is that right?</p> <p>10 A. Yes, sir.</p> <p>11 Q. All right. So I would like to talk</p> <p>12 to you about this letter that you sent and have</p> <p>13 you help us understand some parts of it.</p> <p>14 First of all, can you tell the jury</p> <p>15 what the date of the letter was?</p> <p>16 A. September 27 of 2006.</p> <p>17 Q. And you're sending this letter, this</p> <p>18 letter is being sent to every commercial entity</p> <p>19 in the United States registered with the DEA to</p> <p>20 distribute controlled substances.</p> <p>21 Did I read that correctly?</p> <p>22 A. Yes, sir.</p> <p>23 MR. LANIER: Let's go off the</p> <p>24 record.</p> <p>25 THE VIDEOGRAPHER: We're going off</p>	<p style="text-align: right;">Page 432</p> <p>1 distributors and manufacturers, again, just</p> <p>2 making sure they understand what their</p> <p>3 obligations were, what the obligations that</p> <p>4 they signed on to when they became DEA</p> <p>5 registrants.</p> <p>6 Q. Were these obligations already there</p> <p>7 or were you making new policy?</p> <p>8 A. No, the --</p> <p>9 MS. MAINIGI: Objection.</p> <p>10 THE WITNESS: The obligations in</p> <p>11 1301.74(b) and in 823(e) and (a), (b), were all</p> <p>12 in place since the early stages of the</p> <p>13 Controlled Substances Act, over 40 years.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. Since the 1970s?</p> <p>16 A. Yes.</p> <p>17 Q. So if lawyers or experts or someone</p> <p>18 within industry were to suggest that you, Joe</p> <p>19 Rannazzisi, were initiating a brand new</p> <p>20 responsibility in this 2006 letter, would they</p> <p>21 be correct?</p> <p>22 MR. EPPICH: Object to form.</p> <p>23 MS. MAINIGI: Object to form.</p> <p>24 MR. STEPHENS: Object to form.</p> <p>25 THE WITNESS: In -- in my opinion,</p>

<p style="text-align: right;">Page 433</p> <p>1 no. Absolutely not. Again, 1301.74(b) has  2 been in place for -- since the '70s, well over  3 40 years. This is nothing new. We just wanted  4 to make sure they remembered what their  5 responsibilities were.  6 BY MR. LANIER:  7 Q. All right. So you're writing to  8 make sure that they remember their  9 responsibilities?  10 MR. EPPICH: Object to form.  11 THE WITNESS: Yes.  12 BY MR. LANIER:  13 Q. Now, in this regard, let's look at  14 what you say about those responsibilities in  15 the letter that you sent out marked as Exhibit  16 No. 1.  17 You were talking about the purpose  18 is to reiterate these responsibilities of  19 distributors in view of the prescription drug  20 abuse problem our nation currently faces.  21 What was that drug abuse problem  22 that you were writing about in 2006?  23 A. The problem of the abuse, use and  24 abuse of hydrocodone, mostly hydrocodone and  25 then oxycodone that was diverted from the</p>	<p style="text-align: right;">Page 435</p> <p>1 news media and DEA, I think we laid a pretty  2 good foundation for the abuse problem plus  3 NIHTA and FDA were talking about the abuse  4 problem in the United States.  5 BY MR. LANIER:  6 Q. Okay. You then go on to talk about  7 enforcing the Controlled Substances Act and I  8 want -- the CSA is what you abbreviated it as.  9 Do you see that?  10 A. Yes, sir.  11 MR. EPPICH: Object to form.  12 BY MR. LANIER:  13 Q. Is that the same Controlled  14 Substances Act that when you were giving us  15 definitions, you said categorized drugs into  16 various categories.  17 A. Schedules, yes.  18 Q. Schedules. Thank you. And that's  19 where you said under that Act, if diversion was  20 identified back then, the DEA could stop it  21 hopefully.  22 A. Yes.  23 MS. McCLURE: Object to form.  24 BY MR. LANIER:  25 Q. I guess the big "if" there is, if</p>
<p style="text-align: right;">Page 434</p> <p>1 supply chain.  2 Q. So opioid diversion?  3 A. Yes, sir.  4 Q. And then you continued to say, as  5 each of you is undoubtedly aware, the abuse of  6 controlled prescription drugs is a serious and  7 growing health problem in this country.  8 Did I read that correctly?  9 A. Yes, sir.  10 Q. You put in there, you chose these  11 words, as each of you are undoubtedly aware.  12 Why did you feel confident saying  13 that they were undoubtedly aware of this?  14 MS. MAINIGI: Objection. Form.  15 MS. McCLURE: Objection. Form.  16 Foundation.  17 MR. EPPICH: Object to form.  18 THE WITNESS: Well, for the  19 companies that we had already done face-to-face  20 meetings with, we explained that to them, but  21 there were news reports out there, the states  22 were sending out their own reports, state  23 boards of pharmacy were sending out reports,  24 you know, identifying opioid abuse as a  25 problem, so between the state regulators, the</p>	<p style="text-align: right;">Page 436</p> <p>1 the diversion is identified. Fair?  2 MR. EPPICH: Object to form.  3 THE WITNESS: Yes.  4 BY MR. LANIER:  5 Q. Can't stop something you don't know  6 about, right?  7 MR. EPPICH: Object to form.  8 THE WITNESS: Yes, sir.  9 BY MR. LANIER:  10 Q. All right. So you talk here about  11 that Act in some detail to the registrants, the  12 manufacturers and distributors.  13 You say the CSA, that's the  14 Controlled Substances Act, was designed by  15 Congress to combat diversion. It does it by  16 providing for a closed system of drug  17 distribution.  18 Explain what is meant by you when  19 you talk about a closed system.  20 MR. EPPICH: Object to form.  21 THE WITNESS: A closed system of  22 distribution in theory should be able to  23 account for all drugs from the manufacturer all  24 the way down -- all controlled substances from  25 the manufacturer all the way down to when they</p>



<p style="text-align: right;">Page 437</p> <p>1 are put into the pharmacies or hospitals and 2 then dispensed out to the patients. 3 It's a system of accountability. 4 It's a system of recordkeeping, audits, 5 inventory, security, so the system is secure. 6 It is secure physically, it is secure by the 7 recordkeeping through inventory and through 8 accountability. 9 BY MR. LANIER: 10 Q. So the system, you all kept track -- 11 the system -- let me put it this way. 12 The system was designed to follow 13 these pills from the person who makes it all 14 the way to the person who is supposed to take 15 them; is that right? 16 A. Yes, sir. That's the system of 17 accountability. 18 Q. And it is a closed system, meaning 19 that everybody in the system has to what? 20 A. Has a legal obligation. A legal 21 obligation to follow the security and 22 recordkeeping requirements under the Act and 23 under the regulations and to all maintain 24 effective controls against diversion so the 25 system is not breached.</p>	<p style="text-align: right;">Page 439</p> <p>1 opioids, can it be dangerous? 2 MR. EPPICH: Objection. 3 MS. McCLURE: Objection. Scope. 4 THE WITNESS: Yes, sir. The opioids 5 -- benzodiazepines, they have specific 6 pharmacologic effects on the body. For 7 instance, opioids and an opioid naive patient 8 could cause excessive respiratory depression 9 and it is compounded if you take other 10 depressants with it. It could lead to 11 respiratory arrest. 12 BY MR. LANIER: 13 Q. Respiratory arrest means you quit 14 breathing? 15 A. Yes, sir. 16 Q. Can they be addictive? 17 MR. EPPICH: Objection. Calls for 18 expert conclusion. 19 MR. LANIER: He is a pharmacist. 20 THE WITNESS: Absolutely. 21 BY MR. LANIER: 22 Q. Thank you. 23 Now, this closed system of 24 distribution you are talking about, if we were 25 to try and understand it a little bit more and</p>
<p style="text-align: right;">Page 438</p> <p>1 Q. You're not a medical doctor, 2 correct? 3 A. That is correct, sir. 4 Q. You don't know when it's right to 5 prescribe or when it's not right to prescribe a 6 medicine from the extent of giving a medical 7 doctor's diagnosis, fair? 8 A. That's fair. 9 Q. But you are a licensed pharmacist, 10 aren't you? 11 A. Yes, sir. 12 Q. And as a licensed pharmacist, are 13 you trained and aware of the harms and hazards 14 of these opioid drugs if they are being used 15 improperly? 16 MR. EPPICH: Objection. 17 MS. McCLURE: Objection. 18 THE WITNESS: Yes, sir. Yes, sir, I 19 am. 20 BY MR. LANIER: 21 Q. I mean, if somebody takes an extra 22 vitamin pill, maybe it's just passed out 23 through the urine or something, I don't know, 24 I'm not an expert, but if someone takes an 25 unnecessary and excessive quantity of these</p>	<p style="text-align: right;">Page 440</p> <p>1 put it into categories, you have got a group of 2 folks who make these pills. 3 What are they called in DEA speak? 4 A. Those would be manufacturers. They 5 manufacture the raw material and also the 6 dosage forms. 7 Q. All right. And in the chain from 8 the manufacturers, what comes next? 9 A. Distributors. 10 Q. And the distributors -- explain what 11 the distributors do so I can draw a good 12 picture. 13 A. Distributors obtain the finished 14 form of the drug from the manufacturers, from 15 different manufacturers, because different 16 manufacturers manufacture different -- 17 different types of drug in a basic class. They 18 take all of those and then they distribute it 19 through their distribution chain down to 20 pharmacies, so they are a middleman between the 21 manufacturers and the patient care -- patient 22 care entities, like, pharmacies, hospitals. 23 Q. All right. In my drawing, that's a 24 pill. It is not really a good one. I think 25 most of these weren't that color or size, but</p>



<p style="text-align: right;">Page 441</p> <p>1 that's a pill.</p> <p>2 So the distributors are kind of,</p> <p>3 like, the tree. It takes those pills from the</p> <p>4 manufacturer and sends them out?</p> <p>5 A. Yes, sir. Through a system of</p> <p>6 ordering, they will be sent to pharmacies,</p> <p>7 hospitals.</p> <p>8 Q. And I assume the distributor is</p> <p>9 making money off of distribution?</p> <p>10 A. I believe so, yes.</p> <p>11 MS. McCLURE: Objection.</p> <p>12 BY MR. LANIER:</p> <p>13 Q. Manufacturers are making money off</p> <p>14 manufacture?</p> <p>15 MR. EPPICH: Objection.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. LANIER:</p> <p>18 Q. And then this distribution goes from</p> <p>19 the distributors to -- is that how the</p> <p>20 pharmacies get them?</p> <p>21 A. Pharmacies, hospitals, yes.</p> <p>22 Q. So this is my storefront for the</p> <p>23 pharmacy.</p> <p>24 By the way, do you know what Rx</p> <p>25 stands for?</p>	<p style="text-align: right;">Page 443</p> <p>1 I put quotation marks around this in</p> <p>2 the notes. That is not -- I think you said all</p> <p>3 of that stuff, but I don't think it is a direct</p> <p>4 quote. I need to put some dots in there.</p> <p>5 And my -- what I do need to do to</p> <p>6 make this something you agree with?</p> <p>7 A. Well, the legal obligation is to</p> <p>8 maintain effective controls against diversion,</p> <p>9 and the regulations set out what those</p> <p>10 obligations are. Those obligations include</p> <p>11 security of the supply chain, the physical</p> <p>12 security of the manufacture and distribution</p> <p>13 facilities, the pharmacies, the recordkeeping.</p> <p>14 Each -- each level of the supply</p> <p>15 chain has a recordkeeping obligation that must</p> <p>16 be maintained. The system of auditing, where</p> <p>17 each individual registrant must audit, must</p> <p>18 inventory, and the system of recordkeeping,</p> <p>19 where they must account for all the drugs that</p> <p>20 were either sent downstream, destroyed, taken</p> <p>21 back and moved to another entity, but that</p> <p>22 system, that system of control which is</p> <p>23 basically what it is, from scheduling the drugs</p> <p>24 to putting them in classes so the pharmacists</p> <p>25 understand what their obligations are, through</p>
<p style="text-align: right;">Page 442</p> <p>1 A. Well, it stands for prescription,</p> <p>2 but --</p> <p>3 Q. Where on earth did it come from?</p> <p>4 A. I, you know, all my years as a</p> <p>5 pharmacist, I have never been asked that</p> <p>6 question. I have no idea.</p> <p>7 Q. They didn't, like, teach you that in</p> <p>8 Pharmacy 101?</p> <p>9 A. No. We were too bogged down with</p> <p>10 Latin.</p> <p>11 Q. Okay. All right.</p> <p>12 MR. EPPICH: Before we shift to</p> <p>13 another line, Mr. Lanier, I just wanted to</p> <p>14 object to this demonstrative because that -- I</p> <p>15 don't know if you meant to do this, but the</p> <p>16 quote you have up there, the system is for</p> <p>17 legal obligation to secure, keep records and</p> <p>18 control against diversion, you have that in</p> <p>19 quotes, but that is not actually a quote from</p> <p>20 Mr. Rannazzisi.</p> <p>21 MR. LANIER: You are right. I</p> <p>22 apologize. It's my mistake.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. Sir, I put quotation -- let me clean</p> <p>25 up the record.</p>	<p style="text-align: right;">Page 444</p> <p>1 security, recordkeeping, auditing and</p> <p>2 accountability, all of that is a system that</p> <p>3 creates the infrastructure for the Controlled</p> <p>4 Substances Act.</p> <p>5 Q. So there is a lot that the companies</p> <p>6 can do to maintain effective control; is that</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 MR. EPPICH: Object to form.</p> <p>10 BY MR. LANIER:</p> <p>11 Q. And this obligation that you are</p> <p>12 talking about applies to which of these three</p> <p>13 groups?</p> <p>14 MR. EPPICH: Object to form.</p> <p>15 THE WITNESS: All registrants must</p> <p>16 maintain effective controls against diversion.</p> <p>17 BY MR. LANIER:</p> <p>18 Q. All right. So that envelopes all of</p> <p>19 these groups, fair?</p> <p>20 MR. EPPICH: Objection. Leading.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. LANIER:</p> <p>23 Q. Okay. Now you have said here in</p> <p>24 your letter, talking about this closed system,</p> <p>25 you have said distributors are of course one of</p>

<p style="text-align: right;">Page 445</p> <p>1 the key components of the distribution chain.</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And that's this chain that you have</p> <p>5 told us about, manufacturers, distributors,</p> <p>6 retailers, hospitals, others, right?</p> <p>7 A. Yes, sir.</p> <p>8 Q. All right. Distributors are one of</p> <p>9 the key components. What makes the</p> <p>10 distributors a key component?</p> <p>11 A. They act as a bridge from the</p> <p>12 manufacturers to the pharmacies. They -- they</p> <p>13 have this view of the distribution chain that,</p> <p>14 you know, is wide-ranging. They understand --</p> <p>15 the customers downstream are their customers.</p> <p>16 They could see what is going on downstream.</p> <p>17 Q. You call them a bridge. I'll put</p> <p>18 that in quotation marks. It's your word. I</p> <p>19 will put down here key component. That is</p> <p>20 another one of yours.</p> <p>21 Then you also say, if the closed</p> <p>22 system is to function properly as Congress</p> <p>23 envisioned, distributors must be vigilant in</p> <p>24 deciding whether a prospective customer can be</p> <p>25 trusted to deliver controlled substances only</p>	<p style="text-align: right;">Page 447</p> <p>1 to them, this responsibility is critical.</p> <p>2 Am I reading that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. As Congress has expressly declared</p> <p>5 that the illegal distribution of controlled</p> <p>6 substances has a substantial and detrimental</p> <p>7 effect on the health and general welfare of the</p> <p>8 American people.</p> <p>9 Did I read that correctly?</p> <p>10 A. Yes, sir.</p> <p>11 Q. When you talk about how this is</p> <p>12 critical because of its effect on the health</p> <p>13 and welfare of the American people, did you</p> <p>14 mean that?</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 THE WITNESS: Absolutely. If -- if</p> <p>17 the system is not followed according to the</p> <p>18 regulations, then diversion will occur. The</p> <p>19 system is set up to prevent diversion.</p> <p>20 If diversion occurs and the drugs</p> <p>21 get out into the, you know, to those who</p> <p>22 shouldn't have the drugs, those who are drug</p> <p>23 seekers, people will be harmed and I think</p> <p>24 that's in the preamble in 801, I think that is</p> <p>25 what Congress was getting at in my opinion.</p>
<p style="text-align: right;">Page 446</p> <p>1 for lawful purposes.</p> <p>2 Did I read that correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Explain what you meant by "must be</p> <p>5 vigilant."</p> <p>6 A. Those are the requirements for each</p> <p>7 individual -- each individual registrant within</p> <p>8 the system. To be vigilant is just that. To</p> <p>9 know your customers. To make sure you do due</p> <p>10 diligence on your customers. You look at</p> <p>11 orders. You look at orders that are</p> <p>12 suspicious. As a pharmacist, you would be</p> <p>13 looking at individual prescriptions to -- under</p> <p>14 the doctrine of corresponding responsibility,</p> <p>15 you must determine that a prescription is</p> <p>16 effective and valid before you could dispense.</p> <p>17 Every manufacturer sending drugs</p> <p>18 downstream, they are supposed to be vigilant.</p> <p>19 Know what your middleman customers are doing.</p> <p>20 Everybody has to be vigilant. The only way the</p> <p>21 supply chain works, the only way that the</p> <p>22 infrastructure control works in the Controlled</p> <p>23 Substances Act is if everybody complies with</p> <p>24 their own obligations under the Act.</p> <p>25 Q. All right. You say in your letter</p>	<p style="text-align: right;">Page 448</p> <p>1 They wanted us to prevent diversion and that's</p> <p>2 why they set the Act up in the manner they did.</p> <p>3 BY MR. LANIER:</p> <p>4 Q. All right. In that regard, you talk</p> <p>5 about the statutory scheme, how the statute</p> <p>6 works and the legal duties of distributors as</p> <p>7 well as registrants.</p> <p>8 You say, although most distributors</p> <p>9 are already well aware of the following legal</p> <p>10 principles, they are reiterated here as</p> <p>11 additional background for this discussion.</p> <p>12 Do you see that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Second time you have used that word</p> <p>15 "reiterate," isn't it?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Again, is this something that was</p> <p>18 brand new?</p> <p>19 MR. EPPICH: Object to form.</p> <p>20 THE WITNESS: No. Again, these</p> <p>21 requirements have been in place since the</p> <p>22 nascent stages of the Controlled Substances</p> <p>23 Act.</p> <p>24 BY MR. LANIER:</p> <p>25 Q. You are saying, "the natient</p>

<p style="text-align: right;">Page 449</p> <p>1 stages." I am from Lubbock, Texas. I'm not  2 sure on that word. The early stages?  3 A. Early stages, yes.  4 Q. Natient.  5 A. Nascent.  6 Q. Nascent. All right. Got it.  7 Your second page, and I'm not going  8 to go through the whole letter because we don't  9 have time, but the second page has another  10 sentence I want to make sure that we  11 understand.  12 Moreover, all registrants,  13 manufacturers, distributors, pharmacies,  14 practitioners share responsibility for  15 maintaining appropriate safeguards against  16 diversion.  17 Do you stand by that?  18 A. Yes, sir.  19 Q. And so if we are back to our picture  20 in that closed system, manufacturers,  21 distributors, retailers, the doctors writing  22 the prescriptions and others, what do you mean  23 when you say that all of them "share  24 responsibility for maintaining appropriate  25 safeguards against diversion?"</p>	<p style="text-align: right;">Page 451</p> <p>1 A distributor, you reiterate this.  2 Excuse me. A distributor, and those are the  3 middlemen, right?  4 A. Yes.  5 Q. A distributor has a statutory  6 responsibility to exercise due diligence to  7 avoid filling suspicious orders that might be  8 diverted into other than legitimate medical,  9 scientific and industrial channels; is that  10 correct?  11 A. Yes, sir.  12 Q. Did you find that all of the  13 distributors were living up to what you  14 understood to be their legal responsibility  15 here?  16 MR. EPPICH: Object to form.  17 Foundation.  18 MS. MAINIGI: Objection.  19 MR. BENNETT: Objection. Scope.  20 You are not authorized to disclose  21 any information regarding specific nonpublic  22 DEA investigations or activities in answering  23 that question.  24 THE WITNESS: We found that some  25 distributors were not and that's why we issued</p>
<p style="text-align: right;">Page 450</p> <p>1 MS. MAINIGI: Objection.  2 THE WITNESS: What I was getting at  3 was everybody within that delivery system had  4 an obligation, and appropriate safeguards are,  5 you are following the regulations and the  6 statutory requirements, so for a doctor, a  7 doctor must prescribe for legitimate medical  8 purpose in the usual course of professional  9 practice, but if the doctor is not doing that,  10 the pharmacist has a corresponding  11 responsibility under 1304 to ensure that the  12 prescription is valid and effective.  13 If the pharmacist is not doing that  14 and ordering significant amounts of drugs and  15 they're suspicious, the distributor must report  16 that suspicious order and he must do due  17 diligence and find out what is going on at that  18 pharmacy.  19 BY MR. LANIER:  20 Q. All right. Let me interrupt you for  21 a moment because you say some of that in the  22 letter and I want to make sure that we've got  23 it in your writings of what you provided to all  24 of these industries that you referenced before  25 2006.</p>	<p style="text-align: right;">Page 452</p> <p>1 orders to show cause and immediate suspension  2 orders.  3 BY MR. LANIER:  4 Q. All right. We will look at some as  5 an example here in a moment, but before we do,  6 I want to look at what you said in the next  7 paragraph.  8 Given the requirement under the law  9 that a distributor maintain effective controls  10 against diversion, a distributor may not simply  11 rely on the fact that the person placing the  12 suspicious order is also registered and cannot  13 turn a blind eye to the suspicious  14 circumstances; is that right?  15 MR. EPPICH: Objection.  16 THE WITNESS: Yes, that's correct.  17 BY MR. LANIER:  18 Q. Were you concerned that you needed  19 to reiterate this and say it over and over?  20 MR. EPPICH: Objection. Vague.  21 THE WITNESS: I was -- I was  22 concerned, but I was trying to reinforce what  23 the requirements were. Just because somebody  24 is a DEA registrant doesn't mean that they are  25 following the rules, they are following the</p>

<p style="text-align: right;">Page 453</p> <p>1 law.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. All right. In the third page, you</p> <p>4 go on to say, here are some circumstances that</p> <p>5 might indicate there is diversion going on; is</p> <p>6 that right?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And these -- you gave four examples,</p> <p>9 much like you have told us in here before, were</p> <p>10 concerns that you had or that people could look</p> <p>11 at -- strike that. Let me start that question</p> <p>12 again.</p> <p>13 You give four circumstances that</p> <p>14 might indicate diversion; is that fair to say?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Ordering excessive quantities of a</p> <p>17 limited variety of controlled substance while</p> <p>18 ordering few, if any, other drugs.</p> <p>19 Why would that perhaps be indicative</p> <p>20 or perhaps indicate diversion?</p> <p>21 A. Well, for the most part, pharmacies</p> <p>22 generally follow a pattern of ordering for</p> <p>23 controlled substances and depending on what we</p> <p>24 have read, it could be anywhere as low as 9</p> <p>25 percent to up to 12 or 13 percent as the</p>	<p style="text-align: right;">Page 455</p> <p>1 between 9 and 12 percent of the drugs of</p> <p>2 controlled substances and this pharmacy is</p> <p>3 ordering 40 or 50 percent and it is limited, it</p> <p>4 is limited to oxycodone, hydrocodone --</p> <p>5 oxycodone, hydrocodone and hydromorphone, that</p> <p>6 should set up red flags. It even goes deeper</p> <p>7 if they were ordering a high dose of those</p> <p>8 drugs.</p> <p>9 Q. All right. Order excessive</p> <p>10 quantities of limited varieties in combination</p> <p>11 with excessive quantities of lifestyle drugs.</p> <p>12 Another red flag?</p> <p>13 A. Yes. That was tapping into the</p> <p>14 three drug combination, the panel that we were</p> <p>15 seeing, things like alprazolam, hydrocodone and</p> <p>16 carisoprodol or hydrocodone -- or oxycodone,</p> <p>17 carisoprodol and alprazolam, diazepam,</p> <p>18 clonazepam, any of those different combinations</p> <p>19 of drugs that is unusual.</p> <p>20 Q. You are throwing out a bunch of</p> <p>21 words that most of us have never heard of in</p> <p>22 our life because we just get told, go buy Advil</p> <p>23 or something like that.</p> <p>24 You're -- are these those -- these</p> <p>25 are the chemical names that you are using for</p>
<p style="text-align: right;">Page 454</p> <p>1 average. So it is a red flag when a pharmacy</p> <p>2 is ordering, you know, 40, 50 percent of their</p> <p>3 drugs has controlled substances, you know, and</p> <p>4 looking at the legend or the noncontrolled</p> <p>5 drugs, you've got to ask questions.</p> <p>6 Why are you not ordering? If you</p> <p>7 are a full service pharmacy, why are you not</p> <p>8 ordering noncontrolled legend drugs?</p> <p>9 Q. All right. So we've got a red flag</p> <p>10 on that.</p> <p>11 The second one you gave is ordering</p> <p>12 a limited variety of controlled substances in</p> <p>13 quantities that are disproportionate, not in</p> <p>14 proportion, to the quantity of noncontrolled</p> <p>15 medications ordered.</p> <p>16 Is that also a red flag?</p> <p>17 A. Again, same concept. No. 1 handles,</p> <p>18 you know, where we are only ordering large</p> <p>19 quantities of oxycodone, hydrocodone, nothing</p> <p>20 else or oxycodone, hydrocodone, alprazolam.</p> <p>21 The second one is again, you are</p> <p>22 taking the hydrocodone and the oxycodone and it</p> <p>23 is far exceeding what you are ordering normal</p> <p>24 noncontrolled drugs. So it's disproportional.</p> <p>25 If the normal pharmacy is ordering</p>	<p style="text-align: right;">Page 456</p> <p>1 these drugs?</p> <p>2 A. Yeah. So, for instance,</p> <p>3 benzodiazepines -- the three most used</p> <p>4 benzodiazepines would be alprazolam, clonazepam</p> <p>5 and diazepam. Those are antianxiety agents</p> <p>6 and --</p> <p>7 Q. Chill pills?</p> <p>8 A. Yeah, I guess you could call them</p> <p>9 chill pills.</p> <p>10 When -- in and of themselves, they</p> <p>11 are fine, but when you take them with a potent</p> <p>12 opioid like hydrocodone or oxycodone, both of</p> <p>13 the effects are enhanced.</p> <p>14 Q. All right. So that becomes a thrill</p> <p>15 pill at that point, I guess, instead of a chill</p> <p>16 pill. I will move to strike.</p> <p>17 All right. And No. 4 is ordering</p> <p>18 the same controlled substance for multiple</p> <p>19 distributors, multiple middlemen.</p> <p>20 Now explain why that should -- might</p> <p>21 be a red flag?</p> <p>22 A. The pharmacy is trying or attempting</p> <p>23 to not raise suspicions with one distributor.</p> <p>24 Q. All right.</p> <p>25 A. So if they order for multiple, they</p>



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1 are thinking that they could fly under the  
2 radar.  
3 Q. How would a distributor know if  
4 someone uses multiple distributors?  
5 MR. EPPICH: Objection. Foundation.  
6 BY MR. LANIER:  
7 Q. Based on your experience with the  
8 DEA that you are allowed to talk to us about.  
9 MR. EPPICH: Same objections.  
10 THE WITNESS: There's -- there's  
11 several ways. One is knowing your customer and  
12 doing due diligence. When you on board your  
13 customer, ask them where they are getting their  
14 -- who was previously supplying your drugs.  
15 Are you still supplying -- still getting  
16 supplies from them.  
17 Sending out questionnaires. Looking  
18 at third-party aggregator information, seeing  
19 if that pharmacy has purchased drugs or you  
20 know how much you have supplied that pharmacy,  
21 but look and see how much is being dispensed  
22 out of the pharmacy. If they are dispensing  
23 more than you supplied, chances are there is a  
24 third party somewhere, a fourth party.  
25 BY MR. LANIER:

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1 Q. Now, you told us this earlier when  
2 you were talking about these distributors and  
3 why they must be vigilant that they need to  
4 know their customers and you just said that is  
5 part of knowing the customers, but you also  
6 said they are supposed to look at suspicious  
7 orders.  
8 You put in this letter you sent to  
9 all of them, a list of things that they may  
10 wish to inquire about if they have a suspicion,  
11 if they're -- to determine whether a suspicious  
12 order indicates diversion, then they may wish  
13 to inquire.  
14 Are these some questions that they  
15 could put into their policies to make sure that  
16 they are doing their due diligence?  
17 MS. MAINIGI: Objection.  
18 THE WITNESS: This is a  
19 nonexhaustive list of questions that are  
20 suggested they ask to make a determination if  
21 they are -- the pharmacy they are supplying is  
22 operating within the confines of the Act or if  
23 they are actually diverting.  
24 BY MR. LANIER:  
25 Q. By nonexhaustive, there are more

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1 than just these?  
2 A. Yes, sir.  
3 Q. So if we look at a distributor's  
4 program that they have in place by 2006, we  
5 should already see some of this due diligence  
6 but we may see other things as well, fair?  
7 MR. EPPICH: Object to form.  
8 THE WITNESS: I am just reading.  
9 Yes. That's fair.  
10 BY MR. LANIER:  
11 Q. But by the same token, once you have  
12 sent this out, would it -- would you agree with  
13 the proposition that surely a responsible  
14 distributor would then incorporate these types  
15 of questions into their due diligence, just  
16 their routine. Would you agree?  
17 MS. MAINIGI: Objection.  
18 THE WITNESS: Yes. That's what the  
19 basis of this letter was. We were trying to  
20 explain how, you know, how we believe, you  
21 know, questions that we believe are important  
22 to be asking, in addition to whatever questions  
23 they felt important to ask their customers.  
24 BY MR. LANIER:  
25 Q. So did I write it right? Earlier

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1 you told us -- let me find the note card that  
2 we had.  
3 That -- when I asked you what  
4 compliance was required, you said all the  
5 registrants are to maintain effective control  
6 against diversion, that they are required to  
7 report a suspicious order and then you said  
8 they are to maintain a system to detect  
9 suspicious orders and they don't ship them  
10 without full due diligence that resolves their  
11 suspicion.  
12 So this is -- do you remember  
13 testifying about this earlier?  
14 A. Yes.  
15 Q. And so this list that you gave them,  
16 this nonexhaustive list are things that they  
17 should have had in their approach to make sure  
18 before they sell these drugs that they are  
19 being sold properly. Fair?  
20 MS. MAINIGI: Objection.  
21 THE WITNESS: Yes.  
22 BY MR. LANIER:  
23 Q. And you even told the industry these  
24 questions are not all-inclusive, nor will the  
25 answer to any of these necessarily determine

<p style="text-align: right;">Page 461</p> <p>1 the answer. Consider the totality of the</p> <p>2 circumstances, correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Now, again, if -- by the way, let me</p> <p>5 digress for a minute.</p> <p>6 Do you think industry, and by that I</p> <p>7 mean manufacturers, distributors and sellers,</p> <p>8 were tuned in to the fact that these drugs are</p> <p>9 dangerous drugs?</p> <p>10 MR. EPPICH: Object to form.</p> <p>11 Foundation. Calls for speculation.</p> <p>12 THE WITNESS: I -- yes, I do.</p> <p>13 BY MR. LANIER:</p> <p>14 Q. And you don't have to speculate on</p> <p>15 that, do you? You know that. Why do you know</p> <p>16 that to be true?</p> <p>17 A. Again, because when we sat down and</p> <p>18 talked to the distributors, when we went out</p> <p>19 and did presentations for the industry, we</p> <p>20 talked about the drugs and the dangers of the</p> <p>21 drugs, the dangers of addiction, the dangers,</p> <p>22 all the way through -- all the way up until I</p> <p>23 was -- I left in 2015. That was standard in</p> <p>24 our presentations, plus the fact that the news</p> <p>25 media were reporting on this on a regular</p>	<p style="text-align: right;">Page 463</p> <p>1 A. Yes, sir.</p> <p>2 Q. And you sent it to a number but I</p> <p>3 have pulled out one of the samples so the jury</p> <p>4 can see how you specifically addressed these</p> <p>5 various letters.</p> <p>6 I would like to give you the letter.</p> <p>7 We will mark it as Exhibit No. 2.</p> <p>8 Here is a copy for you, Counsel.</p> <p>9 (Deposition Exhibit 2 was marked for</p> <p>10 identification.)</p> <p>11 BY MR. LANIER:</p> <p>12 Q. Do you have Exhibit No. 2 in front</p> <p>13 of you?</p> <p>14 A. Yes, sir.</p> <p>15 Q. All right. Exhibit No. 2 is a</p> <p>16 sample letter that you sent out to McKesson</p> <p>17 Corporation.</p> <p>18 Do you see that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And in our buckets, McKesson -- or</p> <p>21 in our distribution center, is McKesson a</p> <p>22 manufacturer, a distributor or a retailer?</p> <p>23 A. They would be a distributor.</p> <p>24 Q. The middleman?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 462</p> <p>1 basis, the states were sending out guidance and</p> <p>2 notifications of different problems that are</p> <p>3 occurring with these opioids and the</p> <p>4 benzodiazepines, so the information was out</p> <p>5 there. It was offered. It was -- I can't</p> <p>6 imagine that they didn't know what was going</p> <p>7 on.</p> <p>8 Q. Were you aware during the time you</p> <p>9 wrote this letter, that the way the economics</p> <p>10 of this closed system was working, the more the</p> <p>11 distributors sold, the more money they made?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 MR. EPPICH: Objection to form.</p> <p>14 MS. MAINIGI: Objection. Scope.</p> <p>15 MR. EPPICH: Foundation.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. Were you aware of that?</p> <p>18 A. In volume-wise, yes. I think -- I</p> <p>19 think throughout the chain, that's -- money is</p> <p>20 made on volume sales, yes.</p> <p>21 Q. Now, we have looked at the first</p> <p>22 follow up letter of the 2006 letter, and that</p> <p>23 was Exhibit No. 1.</p> <p>24 You sent a second follow up letter,</p> <p>25 didn't you?</p>	<p style="text-align: right;">Page 464</p> <p>1 Q. All right. And so you sent out</p> <p>2 these letters and this is a sample to McKesson,</p> <p>3 did you send this letter, in fact, to all of</p> <p>4 the registrants that you were talking about</p> <p>5 before?</p> <p>6 A. This letter went to all</p> <p>7 manufacturers and distributors.</p> <p>8 Q. In fact, you say that at the</p> <p>9 beginning. This letter is being sent to every</p> <p>10 entity registered with the DEA to manufacture</p> <p>11 or distribute controlled substances, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And again, were you trying to</p> <p>14 reiterate responsibilities that they had?</p> <p>15 A. Yes. We were trying, again, explain</p> <p>16 to them what their legal obligations were under</p> <p>17 the Act and the regulations.</p> <p>18 Q. And you have been in here throwing</p> <p>19 around numbers of laws and all the rest of this</p> <p>20 stuff just from memory, but did you actually</p> <p>21 put down, for example, the law that is entitled</p> <p>22 21 Code of Federal Regulations 1301.74(b) that</p> <p>23 specifically requires.</p> <p>24 Is that the right word that you</p> <p>25 wanted to use, requires?</p>



<p style="text-align: right;">Page 465</p> <p>1 A. It's a regulation. It's required, 2 yes. 3 Q. Is it optional? 4 A. No. 5 Q. Requires that a registrant, quote, 6 design and operate a system to disclose to the 7 registrant suspicious orders of controlled 8 substances; is that true? 9 A. Yes, sir. 10 Q. Well, who -- whose responsibility is 11 it to design that system? 12 A. The individual registrant. 13 Q. You say that the regulation clearly 14 indicates it's the sole responsibility of the 15 registrant to design and operate such a system, 16 true? 17 A. Yes, sir. 18 Q. And you are reiterating this. Is 19 this new law, is this some new guideline? 20 A. It's the same regulation, same 21 statutory provision that has been in place 22 since the beginning of the Controlled 23 Substances Act. 24 Q. Well, what if the lawyers or the -- 25 the defendant companies want to tell the jury,</p>	<p style="text-align: right;">Page 467</p> <p>1 set it aside in the interest of time. 2 MR. EPPICH: Objection. 3 BY MR. LANIER: 4 Q. But I am going to ask you whether or 5 not, even after these letters, you had any 6 issues or problems with the companies doing 7 what they were obligated to do? 8 MR. EPPICH: Objection. Form. 9 Vague. 10 MR. BENNETT: Objection. Scope. 11 THE WITNESS: There were cases that 12 were done that were -- that were reported out 13 that involved manufacturers and distributors 14 that -- or manufacturers and distributors that 15 were not doing their obligations even after the 16 letters and after the face-to-face visits, 17 meetings. 18 BY MR. LANIER: 19 Q. All right. In this regard for 20 follow up, what types of actions did -- let me 21 get a piece of paper. 22 When the DEA under your oversight 23 found that there were problems and issues 24 before the law was changed -- 25 MS. MAINIGI: Objection.</p>
<p style="text-align: right;">Page 466</p> <p>1 hey, don't blame us, the DEA didn't -- it's the 2 DEA responsibility to design and operate the 3 system. Would that be true? 4 MR. EPPICH: Objection. 5 MS. MAINIGI: Form. 6 THE WITNESS: No, that is just 7 incorrect. It is very specific. The 8 regulation is specific. 9 BY MR. LANIER: 10 Q. Well, what if they say, oh, but the 11 DEA told us it is okay to do it this way? 12 MR. EPPICH: Objection. Form. 13 THE WITNESS: No. The DEA would not 14 tell them to do something outside of the 15 regulation. 16 BY MR. LANIER: 17 Q. And did you specifically warn them 18 of this, that the DEA does not approve or 19 otherwise endorse any specific system for 20 reporting suspicious orders? 21 MS. MAINIGI: Objection. 22 THE WITNESS: Yes. 23 BY MR. LANIER: 24 Q. All right. So much of this is the 25 same as the 2006 letter. I am just going to</p>	<p style="text-align: right;">Page 468</p> <p>1 BY MR. LANIER: 2 Q. -- did you ever have to try and 3 enforce the law and again, within the confines 4 of what you can publicly say to us. 5 MS. MAINIGI: Objection. 6 THE WITNESS: Depending on the 7 violations, depending on the scope of the 8 violations and the potential for imminent 9 danger, yes, we did. We would issue orders to 10 show cause and in cases of imminent danger, we 11 would issue immediate suspension orders. 12 BY MR. LANIER: 13 Q. All right. Those of us who don't do 14 what you do need to make sure we understand 15 what these are. 16 So what is an order to show cause? 17 A. A show cause order is basically 18 notice. It's notice of violations, and the 19 show cause gives them an opportunity for the 20 registrant to appear before an administrative 21 law judge and show cause why the government 22 should not take action against their 23 registration. 24 It's basically an order of notice 25 giving them an opportunity to be heard in front</p>

<p style="text-align: right;">Page 469</p> <p>1 of an ALJ at the DEA.</p> <p>2 Q. An ALJ is an administrative law</p> <p>3 judge?</p> <p>4 A. Yes.</p> <p>5 Q. And you all have those as well at</p> <p>6 the -- that is in the DOJ, in the Department of</p> <p>7 Justice, right?</p> <p>8 A. No. The administrative law judges</p> <p>9 actually sit at DEA.</p> <p>10 Q. Oh, at DEA?</p> <p>11 A. Yes, sir.</p> <p>12 Q. So you notice a violation and give</p> <p>13 the company a chance to come in, in essence,</p> <p>14 and defend themselves?</p> <p>15 A. Yes. And during the proceedings,</p> <p>16 they are allowed to maintain their business and</p> <p>17 continue to handle and distribute or</p> <p>18 manufacture, dispense controlled substances.</p> <p>19 Q. All right. And then the suspension</p> <p>20 order, what is that?</p> <p>21 A. Well, an immediate suspension order</p> <p>22 is part of an order to show cause. A show</p> <p>23 cause order, like I said, they are allowed to</p> <p>24 continue to do business. But an immediate</p> <p>25 suspension order attached to an order to show</p>	<p style="text-align: right;">Page 471</p> <p>1 BY MR. LANIER:</p> <p>2 Q. And I want to ask you a number of</p> <p>3 these questions now as some examples, and I</p> <p>4 will make it real clear, I am not being</p> <p>5 exhaustive. All I am talking about are</p> <p>6 examples that are public that you are allowed</p> <p>7 to talk about. Okay?</p> <p>8 A. (Witness nodding head.) Yes, sir.</p> <p>9 Q. So examples. I saw a settlement</p> <p>10 agreement with AmerisourceBergen that we will</p> <p>11 mark as Exhibit No. 3.</p> <p>12 (Deposition Exhibit 3 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. LANIER:</p> <p>15 Q. I am sorry to be throwing documents</p> <p>16 at you, sir.</p> <p>17 A. That's fine.</p> <p>18 MS. McCCLURE: Excuse me, do you have</p> <p>19 another one of those documents?</p> <p>20 MR. LANIER: Yes. Ms. Singletary</p> <p>21 Fitzpatrick is going to be passing those out.</p> <p>22 Thank you. She has got a full set to make sure</p> <p>23 we can get as many out as possible.</p> <p>24 BY MR. LANIER:</p> <p>25 Q. So I am marking this as Exhibit No.</p>
<p style="text-align: right;">Page 470</p> <p>1 cause, it's at that point in time, the</p> <p>2 violations are presenting an imminent danger to</p> <p>3 public health, public safety.</p> <p>4 So at that point in time, we take</p> <p>5 the registration, the administrator of DEA</p> <p>6 finds that there is an imminent danger, that</p> <p>7 finding is incorporated into the show cause</p> <p>8 order and we immediately take their</p> <p>9 registration, we take their drugs, whatever</p> <p>10 drugs they have on hand, secure their drugs, in</p> <p>11 some cases take their files, make sure that</p> <p>12 their order forms and make sure that they are</p> <p>13 not operating until the conclusion of all the</p> <p>14 proceedings related to the show cause order.</p> <p>15 Q. So you put a stop to their business</p> <p>16 on those drugs; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Did you ever have to do this for any</p> <p>19 distributors because of the opioid problems?</p> <p>20 A. Yes.</p> <p>21 MR. BENNETT: Objection. Scope.</p> <p>22 To the extent it has been made</p> <p>23 public, you may answer.</p> <p>24 THE WITNESS: Yes.</p> <p>25 MR. EPPICH: Objection.</p>	<p style="text-align: right;">Page 472</p> <p>1 3. This is a settlement and release agreement</p> <p>2 entered into in June of '07 between</p> <p>3 AmerisourceBergen and the DEA.</p> <p>4 MS. McCCLURE: Objection. Form.</p> <p>5 BY MR. LANIER:</p> <p>6 Q. Is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. And so we are clear,</p> <p>9 AmerisourceBergen in the closed system, what</p> <p>10 are they?</p> <p>11 A. They are a --</p> <p>12 MS. McCCLURE: Objection. Form.</p> <p>13 THE WITNESS: Sorry. They are a</p> <p>14 distributor.</p> <p>15 BY MR. LANIER:</p> <p>16 Q. All right. So an example of someone</p> <p>17 where you had to issue this, would be the</p> <p>18 distributor AmerisourceBergen?</p> <p>19 MS. McCCLURE: Form.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. Is that fair?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Another example, McKesson. Do you</p> <p>24 recall having to do this for McKesson?</p> <p>25 A. Yes, sir.</p>

<p style="text-align: right;">Page 473</p> <p>1 MR. EPPICH: Object to form.  2 BY MR. LANIER:  3 Q. I'm going to give you a document we  4 will mark as Exhibit No. 4. Put it up here so  5 the jury can see it.  6 (Deposition Exhibit 4 was marked for  7 identification.)  8 BY MR. LANIER:  9 Q. Did the DEA enter into a settlement  10 and release agreement, an administrative  11 memorandum of agreement between McKesson  12 Corporation and the DEA?  13 A. Yes, sir.  14 Q. And McKesson is what type of a  15 company in our closed system?  16 A. They are a distributor.  17 Q. Another example of how you had to  18 enforce the law and bring an action against the  19 company for what the DEA considered to be  20 violations?  21 MR. EPPICH: Object to form.  22 THE WITNESS: Yes, sir.  23 MR. EPPICH: Mr. Lanier, this  24 document is confidential and to the extent  25 there was any confusion in the record earlier,</p>	<p style="text-align: right;">Page 475</p> <p>1 any information regarding specific nonpublic  2 DEA investigations or activities.  3 To the extent you can answer that  4 question based on publicly available  5 information, you may answer.  6 THE WITNESS: Could I have a second  7 with the DOJ attorney?  8 MR. LANIER: Sure. Go off the  9 record.  10 THE VIDEOGRAPHER: Going off record.  11 The time is 11:07.  12 (A short recess was taken.)  13 THE VIDEOGRAPHER: We are going back  14 on the record. Beginning of Media File No. 5.  15 The time is 11:19.  16 (Deposition Exhibit 5 was marked for  17 identification.)  18 BY MR. LANIER:  19 Q. All right. You left the DEA in  20 2016, correct?  21 A. '15, October of 2015.  22 Q. Sorry. My mistake. 2015.  23 The document that I've handed you  24 now is Exhibit No. 5, is an administrative  25 agreement that was entered into McKesson --</p>
<p style="text-align: right;">Page 474</p> <p>1 the document itself is confidential and not  2 public.  3 MR. LANIER: Okay.  4 BY MR. LANIER:  5 Q. Is this when McKesson paid a \$13.25  6 million fine?  7 A. Yes.  8 Q. 2008?  9 A. Yes, that's correct.  10 Q. One year after your 2007 letter, two  11 years after your 2006 letter, after all the  12 meetings you all had, after the law had been in  13 place since the 1970s?  14 MR. EPPICH: Object to form.  15 THE WITNESS: Yes, sir, that's  16 correct.  17 BY MR. LANIER:  18 Q. By the way, while we are on the  19 subject with McKesson, did you know that  20 McKesson continued to violate the law even  21 after they entered into this agreement with the  22 DEA?  23 MR. EPPICH: Object to form.  24 MR. BENNETT: Objection. Scope.  25 You are not authorized to disclose</p>	<p style="text-align: right;">Page 476</p> <p>1 with McKesson after you left. The date on it  2 is January 2017.  3 Do you see that?  4 A. Yes, sir.  5 Q. Were you aware of this agreement  6 before I handed it to you?  7 MR. EPPICH: Object to form.  8 Foundation.  9 THE WITNESS: No. I have never seen  10 this agreement before you handed it to me.  11 BY MR. LANIER:  12 Q. All right. I will represent to you  13 that this is an agreement that's been provided  14 to us. I want to read you some statements that  15 were agreed to by McKesson and ask you whether  16 or not you have any awareness that you are  17 allowed to testify about concerning those  18 actions.  19 So if you will look on first the  20 front page, you will see that this agreement  21 applies to McKesson and the DEA, or any  22 facility owned or operated by McKesson that is  23 registered with the DEA to distribute or  24 otherwise handle controlled substances.  25 Do you see that?</p>

<p style="text-align: right;">Page 477</p> <p>1 MR. EPPICH: Object to form.  2 Foundation.  3 THE WITNESS: Yes, sir.  4 BY MR. LANIER:  5 Q. And you will notice in Paragraph 2  6 under background, it references the fact that  7 this is not, as we would say in Lubbock, not  8 their first rodeo. They had done this before.  9 Do you see that?  10 MR. EPPICH: Object to form.  11 Foundation. Characterization.  12 THE WITNESS: Yes, sir.  13 BY MR. LANIER:  14 Q. May 2008, McKesson entered into a  15 settlement and release agreement.  16 That's the one that was happening  17 under your watch that is referenced here in  18 background Paragraph No. 2; is that fair?  19 MR. EPPICH: Objection. Foundation.  20 THE WITNESS: Yes, sir.  21 BY MR. LANIER:  22 Q. If you will switch over to Page No.  23 3, there is a paragraph entitled: "Acceptance  24 of Responsibility."  25 Do you see that paragraph?</p>	<p style="text-align: right;">Page 479</p> <p>1 not you had that job description because I  2 wrote your name down?  3 A. No, sir.  4 Q. I thought you told us that long ago.  5 We looked at two of those letters, didn't we?  6 A. Yes, sir.  7 Q. You sent these letters, including to  8 McKesson, we even used the McKesson example for  9 the 2007 letter, didn't we? Exhibit 3.  10 A. Yes, sir, we did.  11 Q. The DEA letters contained, among  12 other things, guidance for the identification  13 and reporting of suspicious orders to the DEA  14 as required under the law.  15 That is, in fact, what your letters  16 did. Would you agree with that  17 characterization?  18 A. Yes, sir, that's why they were sent  19 out.  20 MR. EPPICH: Object to foundation.  21 BY MR. LANIER:  22 Q. McKesson acknowledges that at  23 various times during the period from January  24 2009 up through and including the effective  25 date of this agreement, it did not identify or</p>
<p style="text-align: right;">Page 478</p> <p>1 A. Yes, sir.  2 Q. On or about September 27, 2006,  3 February 7, 2007, and December 27, 2007, DEA's  4 deputy assistant administrator, office of  5 diversion control, sent letters to every entity  6 in the U.S. that was registered with DEA to  7 manufacture or distribute controlled substances  8 including McKesson. Those are called the DEA  9 letters.  10 Do you see that?  11 A. Yes, sir.  12 Q. Now, this DEA deputy administrator,  13 assistant administrator, office of diversion  14 control, that is you, isn't it?  15 A. Back then, yes.  16 MR. EPPICH: I will object.  17 MR. LANIER: I'm sorry.  18 MR. EPPICH: My objection is, you  19 are writing his name before he even responds to  20 the question.  21 BY MR. LANIER:  22 Q. That is you, Joe Rannazzisi, isn't  23 it?  24 A. Yes, sir.  25 Q. Did your answer change on whether or</p>	<p style="text-align: right;">Page 480</p> <p>1 report to DEA certain orders placed by certain  2 pharmacies which should have been detected by  3 McKesson as suspicious based on the guidance  4 contained in your letters.  5 Do you see that?  6 MR. EPPICH: Objection. Foundation.  7 THE WITNESS: Yes, sir.  8 BY MR. LANIER:  9 Q. At any time that you are allowed to  10 tell us about, based on the guidance in your  11 letters about the requirements of the law, I  12 left that part out.  13 You see where it says requirements?  14 A. Yes.  15 Q. Now at any point while you were  16 still in the DEA for the almost eight years or  17 so since you sent that last -- the 2007 letter,  18 that you're allowed to tell us about, did  19 McKesson ever come to you and say, hey, we are  20 not doing it.  21 MR. EPPICH: Object to the form.  22 Foundation.  23 THE WITNESS: I'm sorry. I'm just  24 looking for clarification on the question.  25 Did they come to me directly and</p>

<p style="text-align: right;">Page 481</p> <p>1 say, we are not following the law?</p> <p>2 BY MR. LANIER:</p> <p>3 Q. Yeah. Did they self-report?</p> <p>4 MR. EPPICH: Same objections.</p> <p>5 MR. BENNETT: You can -- you are</p> <p>6 authorized to disclose your personal</p> <p>7 recollection regarding your interactions with</p> <p>8 manufacturers and distributors during your</p> <p>9 tenure at office of diversion control and your</p> <p>10 recollection of communication with registrants</p> <p>11 regarding what makes an order suspicious.</p> <p>12 So to the extent you had</p> <p>13 communications that you recall, you may answer</p> <p>14 those. You may not disclose specific</p> <p>15 investigative activities that are nonpublic.</p> <p>16 THE WITNESS: Okay. No. No, I</p> <p>17 never received any kind of self-reporting from</p> <p>18 McKesson.</p> <p>19 BY MR. LANIER:</p> <p>20 Q. Did they ever tell you, this is</p> <p>21 McKesson in 2017, this -- where they admit that</p> <p>22 they had done that?</p> <p>23 MR. EPPICH: Objection.</p> <p>24 Characterization.</p> <p>25 MR. LANIER: All right. You are</p>	<p style="text-align: right;">Page 483</p> <p>1 as examples.</p> <p>2 Are they the only ones?</p> <p>3 MR. EPPICH: Objection.</p> <p>4 MS. McCLURE: Objection. Form.</p> <p>5 Foundation.</p> <p>6 MR. BENNETT: Objection. Form.</p> <p>7 Objection scope.</p> <p>8 Same instructions regarding</p> <p>9 nonpublic investigations.</p> <p>10 THE WITNESS: No. There were other</p> <p>11 investigations that resulted that were publicly</p> <p>12 reported out that resulted in suspensions --</p> <p>13 orders to show cause, suspension orders and</p> <p>14 suspensions.</p> <p>15 BY MR. LANIER:</p> <p>16 Q. We could look at CVS for example.</p> <p>17 Do you remember anything about CVS</p> <p>18 and their admissions in May of 2015?</p> <p>19 MR. EPPICH: Object to form.</p> <p>20 Foundation.</p> <p>21 THE WITNESS: I remember the CVS</p> <p>22 case, yes.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. Let me give you a copy of what we</p> <p>25 will mark as Exhibit No. 6.</p>
<p style="text-align: right;">Page 482</p> <p>1 right. Let me be more careful.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. This is 2017, where McKesson admits</p> <p>4 that it, quote, did not identify or report to</p> <p>5 the DEA certain orders placed by certain</p> <p>6 pharmacies which should have been detected by</p> <p>7 McKesson as suspicious based on the guidance</p> <p>8 contained in the DEA letters about the</p> <p>9 requirements set forth in the law.</p> <p>10 Now my question to you is, did you</p> <p>11 ever hear about the size of the fine that was</p> <p>12 assessed in 2017?</p> <p>13 MR. EPPICH: Objection. Foundation.</p> <p>14 THE WITNESS: Just in the media,</p> <p>15 that was reported out.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. The media reported the fine of 150</p> <p>18 million?</p> <p>19 MR. EPPICH: Objection. Foundation.</p> <p>20 Calls for speculation.</p> <p>21 THE WITNESS: That's what the media</p> <p>22 reported.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. Now, I have pulled out</p> <p>25 AmerisourceBergen, I have pulled out McKesson</p>	<p style="text-align: right;">Page 484</p> <p>1 (Deposition Exhibit 6 was marked for</p> <p>2 identification.)</p> <p>3 BY MR. LANIER:</p> <p>4 Q. Do you have Exhibit No. 6 in front</p> <p>5 of you?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Let's mark it for the jury.</p> <p>8 This is a settlement agreement</p> <p>9 entered into between the DEA and CVS Health and</p> <p>10 all of its subsidiaries and affiliates.</p> <p>11 Do you see that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Now, what part of our chain of</p> <p>14 registrants would CVS be?</p> <p>15 A. CVS would be a pharmacy or a</p> <p>16 retailer under that diagram.</p> <p>17 Q. Did you know whether or not they</p> <p>18 were also a distributor for their own</p> <p>19 pharmacies and retailers?</p> <p>20 A. They did distribute as well.</p> <p>21 Q. So CVS might actually be in two of</p> <p>22 these categories, fair?</p> <p>23 MR. EPPICH: Objection. Foundation.</p> <p>24 THE WITNESS: As a distributor, yes,</p> <p>25 they could be in both categories.</p>



<p style="text-align: right;">Page 485</p> <p>1 BY MR. LANIER:</p> <p>2 Q. Okay. Now, if we look at this</p> <p>3 settlement agreement, and it's signed by CVS,</p> <p>4 it says on Page 3: "CVS acknowledges that</p> <p>5 certain CVS pharmacy retail stores did</p> <p>6 dispense" -- let's make this a little bit</p> <p>7 bigger so people can read it.</p> <p>8 "Did dispense certain controlled</p> <p>9 substances in a manner not fully consistent</p> <p>10 with their compliance obligations under the</p> <p>11 Controlled Substances Act and its implementing</p> <p>12 regulations."</p> <p>13 Do you see that?</p> <p>14 MR. EPPICH: Objection. Foundation.</p> <p>15 THE WITNESS: Yes, sir.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. And were you part of the reason CVS</p> <p>18 agreed to pay the \$22 million fine pursuant to</p> <p>19 this?</p> <p>20 MR. EPPICH: Object to form.</p> <p>21 MR. STEPHENS: Objection.</p> <p>22 MR. BENNETT: Objection. Vague.</p> <p>23 THE WITNESS: I think the fine was</p> <p>24 based on the investigations done by people</p> <p>25 within my office in the Miami field division.</p>	<p style="text-align: right;">Page 487</p> <p>1 identification.)</p> <p>2 BY MR. LANIER:</p> <p>3 Q. All right. I want to put Exhibit 7</p> <p>4 on the ELMO so the jury can look at it, too.</p> <p>5 This is another settlement agreement</p> <p>6 that the DEA entered into with Mallinckrodt.</p> <p>7 Can you see that on this first page?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And Mallinckrodt, from the time you</p> <p>10 were working in the biz of the DEA dealing with</p> <p>11 industry, what part of the chart would they be,</p> <p>12 the chain?</p> <p>13 A. Manufacturer.</p> <p>14 Q. Manufacturer.</p> <p>15 A. Yes.</p> <p>16 Q. In this exhibit, you will notice on</p> <p>17 page -- it's got an appendix that's attached</p> <p>18 and the appendix has got a Page 3.</p> <p>19 If you are looking at the real</p> <p>20 little numbers in the corner, those real little</p> <p>21 numbers end with 630, if that helps you find</p> <p>22 the page.</p> <p>23 A. I got it. Yes, sir.</p> <p>24 Q. It is talking about what</p> <p>25 Mallinckrodt actually said here.</p>
<p style="text-align: right;">Page 486</p> <p>1 BY MR. LANIER:</p> <p>2 Q. Now, did you know anything about CVS</p> <p>3 being written up and settling again in February</p> <p>4 of 2016, or was that after your departure?</p> <p>5 MR. EPPICH: Objection. Form.</p> <p>6 Foundation.</p> <p>7 THE WITNESS: I was -- I retired in</p> <p>8 October of '15.</p> <p>9 BY MR. LANIER:</p> <p>10 Q. All right. I'm going to leave that</p> <p>11 one out for now.</p> <p>12 Mallinckrodt. Did Mallinckrodt have</p> <p>13 problems, are they another example?</p> <p>14 MR. EPPICH: Objection. Form.</p> <p>15 MR. O'CONNOR: Objection. Form.</p> <p>16 THE WITNESS: Mallinckrodt, yes,</p> <p>17 they -- there was an investigation of</p> <p>18 Mallinckrodt as well.</p> <p>19 BY MR. LANIER:</p> <p>20 Q. 2011 is the first one that we've</p> <p>21 got. Well, no, let's digress.</p> <p>22 In the interest of -- well, let me</p> <p>23 hand you a document we will mark as Exhibit No.</p> <p>24 7.</p> <p>25 (Deposition Exhibit 7 was marked for</p>	<p style="text-align: right;">Page 488</p> <p>1 MR. O'CONNOR: Objection.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. "Acceptance of responsibility. This</p> <p>4 settlement agreement is not an admission of</p> <p>5 liability for civil penalties covered under the</p> <p>6 CSA. However, Mallinckrodt agrees" -- you see</p> <p>7 where I am reading?</p> <p>8 A. Yes, sir.</p> <p>9 Q. "At certain times during the covered</p> <p>10 time period prior to January 1, 2012, certain</p> <p>11 aspects of Mallinckrodt's system to monitor and</p> <p>12 detect suspicious orders did not meet the</p> <p>13 standards outlined in letters from the DEA</p> <p>14 deputy administrator, office of diversion</p> <p>15 control," and that is you?</p> <p>16 A. Well, I got a promotion. The deputy</p> <p>17 administrator would have been my boss, so it</p> <p>18 should be deputy assistant administrator.</p> <p>19 Q. Deputy assistant. So misstated</p> <p>20 here, but those were your letters dated</p> <p>21 September 27 and December 27 of '06 and '07,</p> <p>22 right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. So my question to you is: In your</p> <p>25 conversations with Mallinckrodt, did they ever,</p>

<p style="text-align: right;">Page 489</p> <p>1 at any point in time, come to you and</p> <p>2 self-report and say, we are not doing what you</p> <p>3 have told us and made clear to us the law</p> <p>4 requires us to do.</p> <p>5 MR. O'CONNOR: Objection. Form.</p> <p>6 THE WITNESS: Up until the time of</p> <p>7 my retirement, no, I did not hear anything from</p> <p>8 Mallinckrodt about that.</p> <p>9 BY MR. LANIER:</p> <p>10 Q. These are not the only ones, if we</p> <p>11 want to tell the Cardinal story and we will</p> <p>12 wait and see what Cardinal lawyers ask you, but</p> <p>13 there is a story behind Cardinal as well, isn't</p> <p>14 there?</p> <p>15 MR. SMITH: Object to form.</p> <p>16 MR. O'CONNOR: I'm going to object</p> <p>17 to the 11 that you wrote down next to</p> <p>18 Mallinckrodt, and the fact that you are</p> <p>19 including this on a document that described</p> <p>20 order to show cause.</p> <p>21 MR. LANIER: I think it was actually</p> <p>22 entered into in '17, 2017. I will change that,</p> <p>23 or I will just take that out if it makes you</p> <p>24 feel better. We will just leave it as</p> <p>25 Mallinckrodt.</p>	<p style="text-align: right;">Page 491</p> <p>1 Q. Okay. Sir, I want to ask you about</p> <p>2 some explanations and excuses that have been</p> <p>3 used by the defendants in this case and give</p> <p>4 you a chance to explain them. Okay?</p> <p>5 MS. McCLURE: Object to the</p> <p>6 commentary for the record.</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 MR. EPPICH: Objection.</p> <p>9 MR. STEPHENS: Objection.</p> <p>10 BY MR. LANIER:</p> <p>11 Q. Let me ask you this: If the</p> <p>12 defendants were to try to make a case that only</p> <p>13 registrants get ARCOS data and they only get</p> <p>14 their own ARCOS data, does that have anything</p> <p>15 at all to do with what a registrant's</p> <p>16 responsibility is under the law?</p> <p>17 MR. EPPICH: Object to form.</p> <p>18 MS. McCLURE: Objection.</p> <p>19 MR. BENNETT: Objection. Vague.</p> <p>20 THE WITNESS: No, it doesn't.</p> <p>21 BY MR. LANIER:</p> <p>22 Q. Explain.</p> <p>23 A. ARCOS data is a tool that we use,</p> <p>24 it's a statutory requirement under 827, and we</p> <p>25 use it for any number of things, but it's</p>
<p style="text-align: right;">Page 490</p> <p>1 BY MR. LANIER:</p> <p>2 Q. Walgreens. I mean, there are others</p> <p>3 beyond these, fair?</p> <p>4 A. Yes, sir.</p> <p>5 MR. STEPHENS: Objection. Form.</p> <p>6 BY MR. LANIER:</p> <p>7 Q. All right. Now, what I would like</p> <p>8 to do is -- before we finish with my time with</p> <p>9 you and I pass you as a witness, I want to deal</p> <p>10 with some things that have already been asked</p> <p>11 of you in testimony by the companies' lawyers</p> <p>12 and these are what I am going to call</p> <p>13 roadblocks.</p> <p>14 These are questions of whether or</p> <p>15 not your testimony should be believed, whether</p> <p>16 or not you should be believed, whether or not</p> <p>17 the DEA was at fault, whether or not -- any</p> <p>18 number of different things.</p> <p>19 MR. EPPICH: Object to form.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. Do you follow what I am saying?</p> <p>22 What I am asking you about?</p> <p>23 MS. McCLURE: Objection.</p> <p>24 THE WITNESS: Yes, sir.</p> <p>25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 492</p> <p>1 retrospective data. It's generally -- it could</p> <p>2 be anywhere from four to six months old. Okay.</p> <p>3 We use ARCOS not necessarily for</p> <p>4 cases, although it has been used for cases and</p> <p>5 we have developed cases from ARCOS. However,</p> <p>6 suspicious orders are the key because those are</p> <p>7 real time. They are when discovered, and that</p> <p>8 gives us insight into what is happening now,</p> <p>9 not what's happened eight, ten months ago, six</p> <p>10 months ago.</p> <p>11 So the idea that -- well, you have</p> <p>12 ARCOS, so ARCOS, you know, or we need ARCOS,</p> <p>13 well, you could use ARCOS but if you notice the</p> <p>14 cases that we have done, we have never ever</p> <p>15 done cases where we have looked at a particular</p> <p>16 distributor or a manufacturer and said, oh,</p> <p>17 well, in addition to what you have sold, these</p> <p>18 other pharmacies, these other distributors have</p> <p>19 sold as well.</p> <p>20 We only concentrate on what they</p> <p>21 sold, so ARCOS wouldn't help in that respect.</p> <p>22 The fact is that ARCOS helps us to do certain</p> <p>23 things within our requirements, under our</p> <p>24 charges, under the Controlled Substances Act,</p> <p>25 suspicious orders is what they would -- what</p>

<p style="text-align: right;">Page 493</p> <p>1 they could help us with by identifying</p> <p>2 potential registrants that are diverting.</p> <p>3 So the idea that they need ARCOS,</p> <p>4 well, it is helpful, it could be helpful to</p> <p>5 them. It's really not a -- they shouldn't</p> <p>6 necessarily rely on ARCOS. They should rely on</p> <p>7 the suspicious order monitoring.</p> <p>8 Q. All right. To make sure we put this</p> <p>9 into a time perspective, so we have got a</p> <p>10 person ultimately who says to the distributor,</p> <p>11 the manufacturer, whomever we are looking at,</p> <p>12 the person says, get me opioids to sell.</p> <p>13 Are you tracking with me?</p> <p>14 A. Yes.</p> <p>15 MR. EPPICH: Object to form.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. And then the distributor will say,</p> <p>18 the middleman?</p> <p>19 MR. EPPICH: Object to form.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. -- supplies the opioids. Okay?</p> <p>22 Now, some of these opioids, this may be a</p> <p>23 suspicious order if someone is actually looking</p> <p>24 at it.</p> <p>25 Are you following my hypothetical?</p>	<p style="text-align: right;">Page 495</p> <p>1 That is what a suspicious order is for.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. All right. Next roadblock question.</p> <p>4 What if -- by the way, you have given six hours</p> <p>5 of testimony to industry lawyers before I got</p> <p>6 started, right?</p> <p>7 MR. EPPICH: Objection.</p> <p>8 THE WITNESS: Yes, sir.</p> <p>9 BY MR. LANIER:</p> <p>10 Q. And they have made already an</p> <p>11 accusation or at least an allegation that the</p> <p>12 quota levels increased under your watch.</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 MR. EPPICH: Objection.</p> <p>15 BY MR. LANIER:</p> <p>16 Q. Do you remember that testimony?</p> <p>17 A. Yes, sir.</p> <p>18 Q. First of all, I want you to explain</p> <p>19 to the jury what a quota level is, and then I'm</p> <p>20 going to have you explain a few other things</p> <p>21 about this.</p> <p>22 What is a quota level?</p> <p>23 MR. BENNETT: You can answer.</p> <p>24 THE WITNESS: Under Statute 21 USC</p> <p>25 826, Congress set up a system to limit the</p>
<p style="text-align: right;">Page 494</p> <p>1 A. Yes.</p> <p>2 Q. You told the jury that the</p> <p>3 distributor has an obligation to police these</p> <p>4 suspicious orders and tell the DEA, right?</p> <p>5 MR. EPPICH: Object to form.</p> <p>6 Misstates prior testimony.</p> <p>7 BY MR. LANIER:</p> <p>8 Q. Am I right so far?</p> <p>9 A. Yes.</p> <p>10 Q. All right. Now, ARCOS data, as the</p> <p>11 jury will learn, is data that comes out four to</p> <p>12 six months later after the sale of the product;</p> <p>13 is that right?</p> <p>14 A. That is correct.</p> <p>15 Q. How can the companies' inability to</p> <p>16 see data four to six months after the sale ever</p> <p>17 be something that alleviates or helps them with</p> <p>18 their responsibility to stop the sale to start</p> <p>19 with?</p> <p>20 MS. MAINIGI: Objection.</p> <p>21 MR. BENNETT: Objection. Form.</p> <p>22 Objection. Incomplete hypothetical.</p> <p>23 THE WITNESS: I'm -- I'm not sure</p> <p>24 how that would help them. Not with that lag</p> <p>25 time, that four to six, eight month lag time.</p>	<p style="text-align: right;">Page 496</p> <p>1 amount of drugs that are potentially in the</p> <p>2 system at any one time and we do that through</p> <p>3 quota.</p> <p>4 Quota is schedule -- for Schedule I</p> <p>5 and II and certain Schedule III controlled</p> <p>6 substances, and what it is basically is DEA</p> <p>7 establishing an aggregate production quota for</p> <p>8 each basic class of drug, so what is a basic</p> <p>9 class. Hydrocodone would be a basic class of</p> <p>10 drug, oxycodone would be a basic class of drug.</p> <p>11 So DEA through a system with</p> <p>12 manufacturers establishes a ceiling and that</p> <p>13 would be the aggregate production quota and at</p> <p>14 that point in time, manufacturers can draw from</p> <p>15 that ceiling. Think of the aggregate</p> <p>16 production as a pie and then each manufacturer</p> <p>17 starts drawing from that pie. We can never go</p> <p>18 above that ceiling. We can definitely go below</p> <p>19 the ceiling, but we can never go above that</p> <p>20 ceiling.</p> <p>21 And then quota is also established</p> <p>22 for procurement where dosage form manufacturers</p> <p>23 take the amount of raw material or active</p> <p>24 pharmaceutical ingredient that is made by the</p> <p>25 manufacturers and they could produce pills.</p>

<p style="text-align: right;">Page 497</p> <p>1 They could produce dosage forms from that which</p> <p>2 are then sent downstream.</p> <p>3 BY MR. LANIER:</p> <p>4 Q. All right. I'm sorry. So there is</p> <p>5 a pie. There is a total amount and the</p> <p>6 different manufacturers can cut pieces out of</p> <p>7 that pie but that pie is the quota amount,</p> <p>8 fair?</p> <p>9 A. That's the basic class quota amount</p> <p>10 for each basic class, that's the amount of the</p> <p>11 ceiling.</p> <p>12 Q. That's the ceiling?</p> <p>13 A. Yes.</p> <p>14 Q. All right. So the point was made in</p> <p>15 your deposition earlier by the industry lawyers</p> <p>16 that the quota levels increased under your</p> <p>17 watch.</p> <p>18 Lest the jury think you did anything</p> <p>19 wrong, I want to ask you point blank, did you</p> <p>20 do something wrong, Joe Rannazzisi?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: Absolutely not.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. Explain why you say, "absolutely</p> <p>25 not."</p>	<p style="text-align: right;">Page 499</p> <p>1 and development, they have to do stability</p> <p>2 studies, there is an increase in prescriptions,</p> <p>3 and the amount of prescriptions that are going</p> <p>4 out the door have to be -- have to be accounted</p> <p>5 for. That's basically the quota.</p> <p>6 We might be exporting large</p> <p>7 quantities and at one point in time, we also</p> <p>8 had a quota increase, not to put quota out on</p> <p>9 the street, but to maintain a contingency quota</p> <p>10 so if there was a catastrophic event within the</p> <p>11 delivery system, a catastrophic event with the</p> <p>12 manufacture or distribution system, we could</p> <p>13 immediately reissue quota to make up for the</p> <p>14 loss of drug that's in -- that was in the</p> <p>15 system at the time. That's what quota is.</p> <p>16 Quota is not a tool to stop</p> <p>17 diversion. Quota is a tool to limit the amount</p> <p>18 of drug available, you know, from a</p> <p>19 manufacturer, a distributor, but in the end,</p> <p>20 the reason Congress set it up that way and the</p> <p>21 reason it was explained to me was that if there</p> <p>22 is not enough quota to meet the legitimate</p> <p>23 medical, scientific and industrial needs of the</p> <p>24 country, legitimate patients could not --</p> <p>25 would not be able to get their medicine.</p>
<p style="text-align: right;">Page 498</p> <p>1 A. Well, there -- there are certain</p> <p>2 weaknesses in the quota system by statute. One</p> <p>3 is that I could not set quota by individual</p> <p>4 dosage form. I can't -- I can't tell a</p> <p>5 manufacturer what they -- what they can and</p> <p>6 can't manufacture. They are the only ones,</p> <p>7 it's a business decision.</p> <p>8 But secondly and more importantly,</p> <p>9 Congress set up a roadmap in 826 to explain</p> <p>10 exactly what we have to look at in order to set</p> <p>11 the quota, and as long as the industry sets</p> <p>12 justifications for that amount that they are</p> <p>13 seeking, I have to give it.</p> <p>14 Because in 826, 826 requires the</p> <p>15 Drug Enforcement Administration to establish or</p> <p>16 set a quota that meets the legitimate medical,</p> <p>17 scientific, industrial and export needs of the</p> <p>18 country. When Congress set that up, they also</p> <p>19 laid out what we should be looking for and our</p> <p>20 quota is set basically on 826. It's very</p> <p>21 difficult to deviate from 826 because it's</p> <p>22 pretty straightforward in the statute what we</p> <p>23 are required to do.</p> <p>24 So if the quota increased, generally</p> <p>25 it's because, one, there is increased research</p>	<p style="text-align: right;">Page 500</p> <p>1 That is, if we have a quota and we</p> <p>2 decide to cut the quota by 20 percent, you</p> <p>3 still have the same amount of people kind of</p> <p>4 drawing from that quota. Well, if it's 20</p> <p>5 percent less, patients might not get their</p> <p>6 medication. If it's a drug seeker, you know,</p> <p>7 no one really cares, but if it's a -- if it's a</p> <p>8 person who actually needs that opioid, a</p> <p>9 hospice care patient, a palliative care</p> <p>10 patient, somebody that indeed needs opioids for</p> <p>11 transition or whatever, you know, their final</p> <p>12 stages of life. If they can't get that</p> <p>13 medication, they are in pain, then we haven't</p> <p>14 met our obligations under 826.</p> <p>15 Q. Okay. Thank you. Next roadblock</p> <p>16 issue. If there is an allegation that was made</p> <p>17 that pain is undertreated in America, and you</p> <p>18 were asked questions about this in your</p> <p>19 deposition by the company lawyers, do you</p> <p>20 remember those questions?</p> <p>21 MR. EPPICH: Object to form. Object</p> <p>22 to characterization.</p> <p>23 THE WITNESS: I don't remember the</p> <p>24 exact question, but I do remember us talking</p> <p>25 about it.</p>

<p style="text-align: right;">Page 501</p> <p>1 BY MR. LANIER:</p> <p>2 Q. Yeah, they showed you the website</p> <p>3 from the DEA about pain being undertreated or</p> <p>4 something to that effect and you said you</p> <p>5 hadn't noticed it before?</p> <p>6 MR. EPPICH: Objection. Form.</p> <p>7 Mischaracterization.</p> <p>8 THE WITNESS: It was an old form.</p> <p>9 BY MR. LANIER:</p> <p>10 Q. Do you remember that?</p> <p>11 A. I do remember that, yes.</p> <p>12 Q. All right. First of all, are you</p> <p>13 qualified as a medical doctor to talk about</p> <p>14 when opioids are proper treatment and when they</p> <p>15 are not?</p> <p>16 A. I am not a medical doctor.</p> <p>17 Q. So if we need to know medical doctor</p> <p>18 diagnoses and treatments, you are not the right</p> <p>19 guy to be asking about that. Fair?</p> <p>20 MS. MAINIGI: Objection.</p> <p>21 THE WITNESS: That is correct.</p> <p>22 BY MR. LANIER:</p> <p>23 Q. Is there, in fact though, times</p> <p>24 where you recognize as a pharmacist that</p> <p>25 opioids have an important role, namely end</p>	<p style="text-align: right;">Page 503</p> <p>1 Q. I mean, is it the DEA's job to give</p> <p>2 legal advice to these companies?</p> <p>3 MR. EPPICH: Object to form.</p> <p>4 MR. BENNETT: Objection. Vague.</p> <p>5 THE WITNESS: I wouldn't say we give</p> <p>6 legal advice, no.</p> <p>7 BY MR. LANIER:</p> <p>8 Q. In fact, have the companies been</p> <p>9 able to hire people from the DEA and actually</p> <p>10 bring them inside their companies?</p> <p>11 MR. EPPICH: Objection. Foundation.</p> <p>12 Calls for speculation.</p> <p>13 MS. MAINIGI: Also scope.</p> <p>14 THE WITNESS: Some of the companies</p> <p>15 have hired DEA -- former DEA employees, some</p> <p>16 within the office of diversion control, to --</p> <p>17 to work on their systems or work in their</p> <p>18 companies in compliance.</p> <p>19 BY MR. LANIER:</p> <p>20 Q. Is that a problem that you have</p> <p>21 seen? Has that caused a problem that you have</p> <p>22 seen?</p> <p>23 MR. EPPICH: Object to form.</p> <p>24 Foundation. Vague.</p> <p>25 MS. MAINIGI: Objection. Scope.</p>
<p style="text-align: right;">Page 502</p> <p>1 stage cancer patients?</p> <p>2 MR. EPPICH: Objection.</p> <p>3 THE WITNESS: That is correct.</p> <p>4 BY MR. LANIER:</p> <p>5 Q. All right. Next roadblock. If</p> <p>6 there is a suggestion to the jury that is made</p> <p>7 that, gee, the distributors or the</p> <p>8 manufacturers or the pharmacies were confused,</p> <p>9 they just didn't know what they were supposed</p> <p>10 to do. Would that be acceptable in your mind?</p> <p>11 MR. EPPICH: Object to form. Vague.</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 THE WITNESS: No.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. Most of the distributors that you</p> <p>16 have dealt with, the big ones, most of the big</p> <p>17 manufacturers you have dealt with, do they have</p> <p>18 law firm -- lawyers working within them or law</p> <p>19 firms on retainers?</p> <p>20 MS. McCLURE: Form. Foundation.</p> <p>21 MR. EPPICH: Form. Foundation.</p> <p>22 BY MR. LANIER:</p> <p>23 Q. To your knowledge?</p> <p>24 A. To my knowledge, there -- each</p> <p>25 company has both in-house and outside counsel.</p>	<p style="text-align: right;">Page 504</p> <p>1 MR. BENNETT: Objection. Vague.</p> <p>2 THE WITNESS: I don't know if it</p> <p>3 necessarily presents a problem. I would hope</p> <p>4 that those former employees are trying to guide</p> <p>5 or help guide the -- the particular registrants</p> <p>6 through what their requirements are and what</p> <p>7 their obligations are.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. If a company is confused about the</p> <p>10 law, should they just keep selling the opioids</p> <p>11 in the midst of their confusion?</p> <p>12 MR. EPPICH: Objection.</p> <p>13 THE WITNESS: The company has -- all</p> <p>14 the companies, all the registrants have many</p> <p>15 avenues to try and get their -- their questions</p> <p>16 answered, through the local DEA offices, the</p> <p>17 headquarters has a liaison and policy section</p> <p>18 and that liaison and policy section, their sole</p> <p>19 job is to provide guidance to the distributors.</p> <p>20 We have on-site people, on-site</p> <p>21 people who go in to do inspections at the -- at</p> <p>22 the distributors and they can ask those people.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. Would you tell me --</p> <p>25 MS. McCLURE: Counsel, are you</p>



<p style="text-align: right;">Page 505</p> <p>1 representing what is up on the board --</p> <p>2 MR. LANIER: I'm clarifying. No,</p> <p>3 I'm not. I'm about --</p> <p>4 MS. McCLURE: -- that the witness</p> <p>5 has not actually stated in advance of him</p> <p>6 suggesting that, so I also object to the fact</p> <p>7 that your writing tends to be leading.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. Sir, if you will look at my writing</p> <p>10 and excuse the interruption for a moment.</p> <p>11 My question to you is: If they are</p> <p>12 confused, should they stop selling until their</p> <p>13 questions are answered?</p> <p>14 MS. MAINIGI: Objection. Scope.</p> <p>15 BY MR. LANIER:</p> <p>16 Q. Yes or no?</p> <p>17 MS. MAINIGI: Foundation. Form.</p> <p>18 MR. BENNETT: Objection. Incomplete</p> <p>19 hypothetical.</p> <p>20 MS. MAINIGI: Vague.</p> <p>21 THE WITNESS: If they are confused</p> <p>22 and they're -- and they -- and they continue to</p> <p>23 sell in the midst of their confusion, no, they</p> <p>24 shouldn't be selling.</p> <p>25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 507</p> <p>1 the supply chain that was continuing to not</p> <p>2 follow their obligations under the law.</p> <p>3 BY MR. LANIER:</p> <p>4 Q. All right. Question. If the</p> <p>5 companies don't break the law, does the DEA</p> <p>6 even have a job to do on diversion through</p> <p>7 corporate channels?</p> <p>8 MR. EPPICH: Objection. Form.</p> <p>9 Vague.</p> <p>10 THE WITNESS: DEA's job is to -- to</p> <p>11 investigate and -- and try to prevention</p> <p>12 diversion from it happening, so even if the</p> <p>13 companies -- the companies continue to -- to</p> <p>14 meet their obligations, their legal obligations</p> <p>15 under the Act, DEA would still be there because</p> <p>16 we'd still have to do inspections, we'd still</p> <p>17 have to do scheduling actions, we'd still have</p> <p>18 to do accountability audits. DEA is always</p> <p>19 going to be there whether they are, you know,</p> <p>20 meeting their obligations under the law or not.</p> <p>21 MS. McCLURE: I repeat my prior</p> <p>22 request that you stop leading the witness and</p> <p>23 putting testimony on the board in advance. I</p> <p>24 do see that you have, in fact, covered up now</p> <p>25 what you have written previously, but you</p>
<p style="text-align: right;">Page 506</p> <p>1 Q. Thank you. Next roadblock. Who is</p> <p>2 this gentleman named Mr. Rosenberg that was</p> <p>3 with the DEA?</p> <p>4 A. He was an acting administrator after</p> <p>5 Administrator Lynn Hart retired.</p> <p>6 Q. So the acting ad man, Mr. Rosenberg,</p> <p>7 supposedly said that the DEA is part of the</p> <p>8 problem.</p> <p>9 MR. EPPICH: Object to form.</p> <p>10 BY MR. LANIER:</p> <p>11 Q. And that's not an exact quote, but</p> <p>12 that's the essence of what has been suggested</p> <p>13 Mr. Rosenberg said?</p> <p>14 MR. SMITH: Object to form.</p> <p>15 Characterization.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. First of all, do you believe that</p> <p>18 the DEA was part of the problem?</p> <p>19 MS. MAINIGI: Objection. Scope.</p> <p>20 Form.</p> <p>21 MR. EPPICH: Objection. Vague.</p> <p>22 MR. BENNETT: Objection. Vague.</p> <p>23 THE WITNESS: I do not believe that</p> <p>24 DEA was part of the problem. DEA was trying to</p> <p>25 stop diversion and -- and basically clean up</p>	<p style="text-align: right;">Page 508</p> <p>1 wouldn't be in a position of having to do that</p> <p>2 if you would simply let the witness -- you ask</p> <p>3 the question with the witness supplying the</p> <p>4 answer rather than supplying them for him.</p> <p>5 MR. LANIER: With due respect to the</p> <p>6 way you are reciting the record here, I am able</p> <p>7 to write down questions that I'm going to be</p> <p>8 asking, as well as questions that I have asked</p> <p>9 and if I am doing that and I'm covering it up,</p> <p>10 that's a fine thing to do.</p> <p>11 And if there is a question that's</p> <p>12 down here that is not one that he agrees with,</p> <p>13 he will make it clear. You all will make it</p> <p>14 clear, you will have this, so I want to make</p> <p>15 sure you are clear on that.</p> <p>16 MS. McCLURE: Special Master Cohen,</p> <p>17 I request a instruction given to counsel to</p> <p>18 advise him to stop writing on a sheet that is</p> <p>19 visible to the screen, to the jury, to</p> <p>20 counsels' room, and most importantly especially</p> <p>21 to the witness in advance of the witness</p> <p>22 providing that testimony.</p> <p>23 SPECIAL MASTER COHEN: So you can do</p> <p>24 what you are doing at the risk of it being not</p> <p>25 allowed in a trial.</p>

<p style="text-align: right;">Page 509</p> <p>1 MR. LANIER: Very good. Thank you.</p> <p>2 SPECIAL MASTER COHEN: And maybe a</p> <p>3 better way of doing it is to allow the witness</p> <p>4 to testify before writing it, so that you avoid</p> <p>5 what could be an objection that is sustained by</p> <p>6 the Court, so that you are not allowed to play</p> <p>7 it.</p> <p>8 MR. LANIER: Thank you.</p> <p>9 BY MR. LANIER:</p> <p>10 Q. Sir, so here is my question: If the</p> <p>11 company stopped the diversion, the DEA is or</p> <p>12 isn't the issue?</p> <p>13 MS. McCLURE: Form.</p> <p>14 MS. MAINIGI: Same objection.</p> <p>15 MR. BENNETT: Objection. Vague.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. In other words -- let me ask it this</p> <p>18 way: If the companies do their job properly,</p> <p>19 they follow the law, does the DEA have the</p> <p>20 problem of telling the companies you didn't</p> <p>21 follow the law?</p> <p>22 MS. McCLURE: Object to form.</p> <p>23 MR. EPPICH: Object to form.</p> <p>24 MS. MAINIGI: Objection. Let the</p> <p>25 record reflect that Mr. Lanier engaged in the</p>	<p style="text-align: right;">Page 511</p> <p>1 Q. If someone speeds through the school</p> <p>2 zone, a police officer might be there with a</p> <p>3 radar gun, might catch them, might write them a</p> <p>4 ticket. That is something you can foresee</p> <p>5 happening, fair?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: Yes, sir.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. If a person speeds through a school</p> <p>10 zone and the police officer doesn't happen to</p> <p>11 be there that day with a radar gun that day and</p> <p>12 doesn't catch that person, does that mean that</p> <p>13 the person is innocent?</p> <p>14 MS. MAINIGI: Objection.</p> <p>15 MR. EPPICH: Objection.</p> <p>16 THE WITNESS: No.</p> <p>17 BY MR. LANIER:</p> <p>18 Q. Can the person blame the cop because</p> <p>19 the person sped through the school zone and the</p> <p>20 cop wasn't there?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. If the -- if the companies are not</p> <p>25 diverting or allowing diversion of the product,</p>
<p style="text-align: right;">Page 510</p> <p>1 same conduct in terms of leading the witness.</p> <p>2 The witness was shown what Mr. Lanier wanted</p> <p>3 the answer to be, and then after the fact, Mr.</p> <p>4 Lanier added additional words.</p> <p>5 MS. McCLURE: Same question.</p> <p>6 THE WITNESS: If the companies were</p> <p>7 following the law, the DEA would not have to</p> <p>8 take the measures that it took to try and bring</p> <p>9 them into compliance, which is issuing orders</p> <p>10 to show cause, issuing immediate suspension</p> <p>11 orders, sending out countless reminders. If</p> <p>12 they were following the law, that wouldn't</p> <p>13 happen.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. Let me use an example that is maybe</p> <p>16 more everyday. Do you drive a car?</p> <p>17 A. Yes, sir.</p> <p>18 Q. You are aware of speed limits?</p> <p>19 A. Yes, sir.</p> <p>20 Q. You are aware that sometimes there</p> <p>21 are school zones where the speed limit is</p> <p>22 reduced for the school zone.</p> <p>23 A. Yes, sir.</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 512</p> <p>1 then the DEA's job gets a whole lot easier,</p> <p>2 doesn't it?</p> <p>3 MR. EPPICH: Objection.</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 THE WITNESS: Absolutely.</p> <p>6 MR. LANIER: Next. I'm going to</p> <p>7 pass the witness and save my time for redirect.</p> <p>8 Thank you.</p> <p>9 THE VIDEOGRAPHER: Going off record.</p> <p>10 The time is 12:02.</p> <p>11 (A lunch recess was taken.)</p> <p>12 MR. LANIER: I have marked for the</p> <p>13 court reporter as Exhibit 8 the handwritten</p> <p>14 notes and attached those, which I understand</p> <p>15 defense has gotten a copy of, a color copy, so</p> <p>16 that they can then use as well as being</p> <p>17 attached to the exhibit.</p> <p>18 Thank you.</p> <p>19 (Deposition Exhibit 8 was marked for</p> <p>20 identification.)</p> <p>21 THE VIDEOGRAPHER: We're going back</p> <p>22 on record.</p> <p>23 Beginning of Media File No. 6.</p> <p>24 Time is 1:11.</p> <p>25 EXAMINATION BY COUNSEL FOR CARDINAL HEALTH</p>

<p style="text-align: right;">Page 513</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. Good afternoon, Mr. Rannazzisi.</p> <p>3 My name is Enu Mainigi. And I</p> <p>4 represent Cardinal Health. I questioned you on</p> <p>5 day one of your deposition.</p> <p>6 Do you recall that?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And you recall there were some other</p> <p>9 questioners in that day as well.</p> <p>10 Do you remember that?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. So I'm going to start off the</p> <p>13 questioning following Mr. Lanier's questioning</p> <p>14 of you. And there will be several others that</p> <p>15 follow after me.</p> <p>16 Is that okay?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. Mr. Lanier asked you, Mr.</p> <p>19 Rannazzisi, about your time in enforcement.</p> <p>20 Do you recall that?</p> <p>21 A. Yes, sir -- ma'am. Yes, ma'am.</p> <p>22 Q. And I think he was talking about</p> <p>23 when you were in the field in part for DEA</p> <p>24 enforcement.</p> <p>25 Do you remember that?</p>	<p style="text-align: right;">Page 515</p> <p>1 A. Yes.</p> <p>2 Q. Mr. Rannazzisi, you were asked a</p> <p>3 bunch of questions about a bill that got passed</p> <p>4 by Congress.</p> <p>5 Do you remember that?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. And that was called -- that bill was</p> <p>8 -- I don't recall if the name came up. Was it</p> <p>9 called the Marino bill?</p> <p>10 A. No, ma'am.</p> <p>11 Q. What bill were you referring to?</p> <p>12 A. The Ensuring Patient Access and</p> <p>13 Effective Drug Enforcement Act of 2016.</p> <p>14 Q. Okay. So that bill was passed in 2</p> <p>15 -- 2016.</p> <p>16 A. Yes. Which --</p> <p>17 Q. And -- I'm sorry. Go ahead.</p> <p>18 A. Yes.</p> <p>19 Q. And so the bill that Mr. Lanier</p> <p>20 asked you about that -- that essentially</p> <p>21 hampered DEA's ability to control diversion, I</p> <p>22 think were the word that were used, that was</p> <p>23 passed in 2016?</p> <p>24 A. Yes.</p> <p>25 Q. And that was prior -- you left prior</p>
<p style="text-align: right;">Page 514</p> <p>1 A. Yes.</p> <p>2 Q. And I think that was when he was</p> <p>3 asking you about some of the gear that you</p> <p>4 might have worn, the -- the jumpsuit, the</p> <p>5 overalls.</p> <p>6 Do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. Now, that took place before you took</p> <p>9 over as head of antidiversion at headquarters,</p> <p>10 correct?</p> <p>11 A. Yes. That would have been in the</p> <p>12 '80s and '90s.</p> <p>13 Q. Okay. And when you took over</p> <p>14 antidiversion at headquarters, that was</p> <p>15 starting in the 2004 time period, really 2005,</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. And I think, as we talked about on</p> <p>19 day one of your testimony, it was in that time</p> <p>20 period that you began to deal with</p> <p>21 distributors, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And just so the record is clear, by</p> <p>24 "that time period" I mean in the 2004, 2005</p> <p>25 time period forward, correct?</p>	<p style="text-align: right;">Page 516</p> <p>1 to 2016, correct?</p> <p>2 A. Yes.</p> <p>3 Q. So that bill was passed after you</p> <p>4 left the DEA?</p> <p>5 A. That is correct.</p> <p>6 Q. So you don't necessarily have any</p> <p>7 firsthand knowledge of how that bill hampered</p> <p>8 DEA's ability to control diversion, correct?</p> <p>9 A. DEA hasn't issued an immediate</p> <p>10 suspension order that I'm aware of, except for</p> <p>11 one, which was withdrawn, since the passage of</p> <p>12 that bill related to manufacturers and</p> <p>13 distributors.</p> <p>14 So I believe, yes, that's probably</p> <p>15 correct.</p> <p>16 Q. So you have firsthand knowledge</p> <p>17 since 2016 as to how this 2016 bill has</p> <p>18 hampered DEA's antidiversion efforts?</p> <p>19 A. I -- again, I -- I said that, based</p> <p>20 on the news reporting, there was only one</p> <p>21 instance where an immediate suspension order</p> <p>22 was executed post-bill. And that immediate</p> <p>23 suspension order was withdrawn. It was</p> <p>24 withdrawn.</p> <p>25 So I don't know of everything, but I</p>

<p style="text-align: right;">Page 517</p> <p>1 know what's been reported. And generally DEA</p> <p>2 reports when they execute immediate suspension</p> <p>3 orders in order to show cause. And I -- I</p> <p>4 pretty much keep up with the news and make sure</p> <p>5 that I keep up with what's going on.</p> <p>6 Q. But you haven't been inside DEA</p> <p>7 since when?</p> <p>8 A. October of 2015.</p> <p>9 Q. Okay. So you don't know what was</p> <p>10 going on at DEA that may or may not have</p> <p>11 resulted in them pursuing suspension orders,</p> <p>12 correct?</p> <p>13 A. That is correct.</p> <p>14 Q. But you were at DEA from 2005</p> <p>15 through October 2015, right?</p> <p>16 A. Yes.</p> <p>17 Q. And you were the head of</p> <p>18 antidiversion at DEA in that time period,</p> <p>19 correct?</p> <p>20 A. The Office of Diversion Control,</p> <p>21 yes.</p> <p>22 Q. And -- and tell us again, just in</p> <p>23 case we didn't get it last time, what is the</p> <p>24 role of the Office of Diversion Control?</p> <p>25 A. The Office of Diversion Control</p>	<p style="text-align: right;">Page 519</p> <p>1 on what investigation we're doing.</p> <p>2 Q. With respect to investigating</p> <p>3 antidiversion, would you use ARCOS data?</p> <p>4 A. We can use it historically to</p> <p>5 support information that we received. But we</p> <p>6 didn't have any current ARCOS data.</p> <p>7 Q. With respect to the use of ARCOS</p> <p>8 data, the DEA has used ARCOS data to show</p> <p>9 distributors where they could do better,</p> <p>10 correct?</p> <p>11 A. We have -- yes. 2005 meetings we</p> <p>12 did show ARCOS data, yes.</p> <p>13 Q. Is there any type of other data that</p> <p>14 could be used that DEA had access to that would</p> <p>15 be more timely?</p> <p>16 MR. BENNETT: Objection. Scope.</p> <p>17 You're not authorized to disclose</p> <p>18 confidential law enforcement investigative or</p> <p>19 intelligence gathering and dissemination</p> <p>20 techniques whose effectiveness would be</p> <p>21 impaired by the disclosure.</p> <p>22 To the extent that there is publicly</p> <p>23 available information regarding databases that</p> <p>24 you could use or information you could use, you</p> <p>25 may answer.</p>
<p style="text-align: right;">Page 518</p> <p>1 oversees all pharmaceutical, chemical,</p> <p>2 synthetic drug investigations related to</p> <p>3 controlled substances, listed chemicals and --</p> <p>4 and any type of analog or synthetic.</p> <p>5 We monitor, inspect the -- the</p> <p>6 regulated industry, be it the registrants or</p> <p>7 the chemical manufacturers and distributors, to</p> <p>8 ensure that diversion does not occur in those</p> <p>9 supply chains.</p> <p>10 Q. And so you -- part of what you do is</p> <p>11 monitor the registrants in the Office of</p> <p>12 Diversion Control, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And if the registrants were not</p> <p>15 doing their job, then you would take action,</p> <p>16 correct?</p> <p>17 A. We would conduct investigations,</p> <p>18 yes.</p> <p>19 Q. And one of the ways you would</p> <p>20 conduct investigations is by looking at data;</p> <p>21 is that right?</p> <p>22 A. There's -- there's many methods to</p> <p>23 look at -- to conduct investigations. Data</p> <p>24 collection, data review is part of it. It</p> <p>25 depends on the type of investigation. Depends</p>	<p style="text-align: right;">Page 520</p> <p>1 THE WITNESS: And that's not a</p> <p>2 question I could answer.</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. How about answering "yes" or "no"?</p> <p>5 Was there other types of data that</p> <p>6 could be used by the DEA to investigate</p> <p>7 diversion, yes or no?</p> <p>8 MR. BENNETT: Objection. Vague.</p> <p>9 You can answer "yes" or "no" only.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MS. MAINIGI:</p> <p>12 Q. But you can't tell me what that data</p> <p>13 is?</p> <p>14 A. I'm prohibited from telling you what</p> <p>15 that data is.</p> <p>16 Q. Now, coming back to this 2016</p> <p>17 bill -- or rather let -- let's go to the time</p> <p>18 period before that. Because that -- that</p> <p>19 happened after you left, that 2016 bill.</p> <p>20 So from 2005 to 2015, there wasn't</p> <p>21 any sort of bill that Congress passed that</p> <p>22 hampered the DEA's ability to control</p> <p>23 diversion, was there?</p> <p>24 A. Well, that bill was introduced on at</p> <p>25 least two occasions, from '14 up until I left</p>

<p style="text-align: right;">Page 521</p> <p>1 in '15, before it was passed in -- in the form 2 it was passed in '16. 3 Q. So only when a bill becomes a law 4 does it take effect, right? 5 A. That's correct. 6 Q. And so it took effect sometime in 7 '16 or thereafter, correct? 8 A. Yes. 9 Q. So let me ask my question again, Mr. 10 Rannazzisi. 11 From 2005 to 2015, did Congress pass 12 any sort of legislation that hampered DEA's 13 ability to control diversion? 14 A. Up until that point in time, no. 15 Q. Now, while you were head of the 16 office of antidiversion at the DEA, Mr. 17 Rannazzisi, from 2005 to 2015, did you make any 18 efforts to change the law -- or the laws 19 related to antidiversion yourself? 20 MR. BENNETT: Objection. Vague. 21 THE WITNESS: When Congress -- 22 Congress has asked us to review certain 23 provisions of the act, and we have provided 24 comments. But we don't generally tell Congress 25 what changes need to be made unless we're</p>	<p style="text-align: right;">Page 523</p> <p>1 to say that, "The administration has not made a 2 -- not taken a position on that. We'll have to 3 get back to you." 4 So, you know, we -- we're 5 constrained from talking about certain things 6 within the hearing process. 7 Q. Did you ever advocate to Congress 8 that quota should be decreased? 9 A. I never advocated to Congress that 10 quota should be in -- decreased. I did 11 advocate, after requests that the quota 826 12 could be changed, to make it -- to make the 13 statute stronger. But I've never advocated for 14 a decrease in quota. Because I have to follow 15 the 826, the statute. 16 Q. Did you ever advocate to Congress 17 that the definition of "suspicious order" in 18 the regulation should be clarified? 19 A. No. And Congress never asked for 20 that. Again, we only -- we only provide 21 technical guidance when Congress asks us for 22 it. 23 Q. Did you ever advocate the Congress 24 that there should be greater clarity provided 25 as to what an adequate suspicious order</p>
<p style="text-align: right;">Page 522</p> <p>1 asked, unless we're asked to provide technical 2 guidance, at which point in time then we -- we 3 can. 4 BY MS. MAINIGI: 5 Q. Well, I think you told Mr. Lanier 6 you testified in front of Congress about 33 7 times? 8 A. Yes, ma'am. 9 Q. And in any of those 33 times, did 10 you suggest to Congress that there could be 11 enhancements to the antidiversion laws 12 instituted to help abate diversion? 13 A. I don't necessarily remember every 14 time we testified. However, at a congressional 15 request, we did send them opinions on what 16 could be changed in the law to make it more 17 effective. And it was all throughout the 18 Controlled Substances Act. As long as they are 19 making the request and asking us what needed to 20 be done, we -- we could provide guidance. 21 In a hearing there's certain 22 limitations that we have on how we could 23 testify regarding proposed legislation or 24 proposed legislative changes. If you look at 25 most people when they're testifying, they have</p>	<p style="text-align: right;">Page 524</p> <p>1 monitoring system should be? 2 A. Again, we don't advocate to 3 Congress. What we do is, when Congress asks us 4 or the administration decides that there might 5 need to be a change, it's brought to the 6 attention of Congress. 7 But generally Congress makes a 8 decision to review certain provisions of any 9 act, not just the Controlled Substances Act. 10 Q. So the answer is no, Mr. Rannazzisi, 11 you never went in front of Congress and 12 advocated for greater clarity as to what would 13 be appropriate for an adequate suspicious order 14 monitoring system? 15 A. Again, that would be an 16 administration decision. And no, I personally 17 have never advocated for that. 18 Q. And -- and is that, in part, because 19 your view, as I understood it from last time, 20 Mr. Rannazzisi, is you think that the 21 regulation is very clear, right? 22 A. I think the regulation is very 23 straightforward and clear, yes. 24 MS. MAINIGI: Okay. We'll mark the 25 -- let me go ahead and mark an exhibit, Mr.</p>



<p style="text-align: right;">Page 525</p> <p>1 Rannazzisi. In fact, I'll -- I'll go ahead and 2 mark a couple at the same time. 3 We'll mark this as Exhibit 9. 4 And I'm going to give you a copy of 5 the Controlled Substances Act. 6 (Deposition Exhibit 9 was marked for 7 identification.) 8 MS. MAINIGI: Here you go. 9 And I'm going to give you a copy as 10 Exhibit 10 of the C.F.R. 11 (Deposition Exhibit 10 was marked 12 for identification.) 13 MS. MAINIGI: There you go, Mr. 14 Rannazzisi. Sorry. 15 THE WITNESS: Thank you. 16 BY MS. MAINIGI: 17 Q. So tell us what -- let's -- let's 18 look at Exhibit 9 first. 19 Tell us what the Controlled 20 Substances Act is. 21 A. The Controlled Substances Act is the 22 federal statute that governs laws and 23 provisions contain -- laws and provisions that 24 pertain to controlled substances and listed 25 chemicals.</p>	<p style="text-align: right;">Page 527</p> <p>1 not in the Controlled Substances Act either, 2 right? 3 A. That is correct. 4 Q. Are the words "site inspections" or 5 "site visits" -- are those in the Controlled 6 Substances Act? 7 A. I believe inspections are in the act 8 or in the regs. Its' been a while since I -- I 9 rolled through that section. But I'm pretty 10 sure there's a -- there's a section that 11 authorizes the attorney general to do on-site 12 inspections. 13 Q. Okay. Do you see that in -- so 14 right now we're on the Controlled Substances 15 Act. 16 Are site inspections or site visits 17 in the Controlled Substances Act? 18 A. I don't have the full act. I just 19 have Section 823. 20 Q. An that's the section that governs 21 the registration of manufacturers, distributors 22 and dispensers of controlled substance, 23 correct? 24 A. Yes. 25 Q. Okay. And in sections -- or</p>
<p style="text-align: right;">Page 526</p> <p>1 Q. And does the Controlled Substances 2 Act speak to obligations of distributors, 3 manufacturers, pharmacies and other 4 registrants? 5 A. Yes. 6 Q. Now, if you take a look at it, it -- 7 it appears that subparagraphs B and E of the 8 Controlled Substances Act relate to 9 distributors. 10 Do you see that? 11 A. Yes. 12 Q. And Subsection B -- or 13 Subparagraph B relates to Schedule I, 14 Schedule II controlled substances, right? 15 A. Yes. 16 Q. And then Subparagraph E relates to 17 Schedule III, IV and V substances, correct? 18 A. Yes. 19 Q. Okay. Now, within the Controlled 20 Substances Act, and in particular those -- 21 those subparagraphs the words "know your 22 customer" does not appear, correct? 23 A. The words "know your customer" is 24 not in the Controlled Substances Act. 25 Q. And the words "due diligence" are</p>	<p style="text-align: right;">Page 528</p> <p>1 subparagraphs B and E, do you see "site 2 inspections" or "site visits"? 3 A. No. It's not -- I -- I'm -- I'm 4 sure it's not within this section of the act. 5 Q. The words "do not shift," they're 6 not in the Controlled Substances Act in 7 sections B and E, are they? 8 A. No. 9 Q. Does the Controlled Substances Act 10 expressly say that registrants must conduct an 11 independent analysis of suspicious orders prior 12 to completing a sale to determine whether the 13 controlled substances are likely to be diverted 14 from legitimate channels? 15 A. I'm sorry. Could you repeat that 16 question one more time. 17 MS. MAINIGI: Could you read it 18 back, please. 19 (The record was read as requested.) 20 THE WITNESS: No. It's not 21 expressly outlined in the Controlled Substances 22 Act. But it falls under maintenance, effective 23 controls against diversion. 24 BY MS. MAINIGI: 25 Q. Does it say it in the Controlled</p>

<p style="text-align: right;">Page 529</p> <p>1 Substances Act?</p> <p>2 A. No. But to maintain effective</p> <p>3 controls against diversion, there are steps you</p> <p>4 have to take or -- you know, so if you're not</p> <p>5 monitoring your customers, if you're not doing</p> <p>6 due diligence, if you're not doing on-site</p> <p>7 inspections, if you're not doing anything like</p> <p>8 that, you're not truly maintaining effective</p> <p>9 controls against diversion.</p> <p>10 Q. And what you just said, where is</p> <p>11 that written down?</p> <p>12 A. It was -- it's not in the Act. But</p> <p>13 it was reinforced in our meetings and our</p> <p>14 letters with the industry and in the other</p> <p>15 on-site inspections that were done and our case</p> <p>16 law that was established through the</p> <p>17 administrative proceedings.</p> <p>18 Q. So all of that stuff, the letters</p> <p>19 you're referring to, those were the letters</p> <p>20 that Mr. Lanier showed you?</p> <p>21 A. Yes.</p> <p>22 Q. And those were letters from the end</p> <p>23 of 2006, end of 2007; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And the Controlled Substances Act</p>	<p style="text-align: right;">Page 531</p> <p>1 a binder full of information.</p> <p>2 Q. And that binder full of information</p> <p>3 set out particular requirements; is that right?</p> <p>4 A. I wasn't at -- I wasn't at the</p> <p>5 meetings. But from what I understood, it --</p> <p>6 everything that was put in those letter was</p> <p>7 just a reflection of what came out of those</p> <p>8 meetings.</p> <p>9 And if we have the binder -- I don't</p> <p>10 have the binders handy. But if I had the</p> <p>11 binders, I -- I could look through and find it.</p> <p>12 But the binders basically discuss --</p> <p>13 or those meetings discussed what due diligence</p> <p>14 was, what a suspicious order was, and what the</p> <p>15 requirements were.</p> <p>16 Q. So let's leave aside the binder. We</p> <p>17 can --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- pick up on the binder later.</p> <p>20 Prior to the fall of 2005 and since</p> <p>21 1970, where were the requirements you spoke of</p> <p>22 written down somewhere and given to</p> <p>23 distributors?</p> <p>24 A. I don't recall any -- any type of</p> <p>25 document or guidance document where the</p>
<p style="text-align: right;">Page 530</p> <p>1 was passed when?</p> <p>2 A. In the '70s.</p> <p>3 Q. So prior --</p> <p>4 A. Early '70s.</p> <p>5 Q. I'm sorry.</p> <p>6 A. Yeah.</p> <p>7 Q. Prior to those letters, where are</p> <p>8 the requirements you spoke of written down</p> <p>9 somewhere?</p> <p>10 A. It's -- again, it's part of due</p> <p>11 diligence. It's not -- it's not written in the</p> <p>12 Act, but it's part of their due diligence</p> <p>13 obligations. It's been developed over time.</p> <p>14 Q. So it's not written in the Act,</p> <p>15 right?</p> <p>16 A. It's not in the Act.</p> <p>17 Q. Was there some other sort of</p> <p>18 guidance or document?</p> <p>19 Is that what you referred to got</p> <p>20 written down in prior to 2006?</p> <p>21 A. Well, the meetings in 2005.</p> <p>22 Q. Was there a handout provided to</p> <p>23 distributors that had those requirements on it?</p> <p>24 A. If I remember correctly, the</p> <p>25 distributors -- distributors were provided with</p>	<p style="text-align: right;">Page 532</p> <p>1 distributors were told to do certain things</p> <p>2 prior to 2005 that were related to maintaining</p> <p>3 effective controls against diversion.</p> <p>4 Q. Now, let's turn to Exhibit 10. That</p> <p>5 is the Code of Federal Regulations.</p> <p>6 Can you explain what the Code of</p> <p>7 Federal Regulations is, just generally?</p> <p>8 A. Code of Federal Regulations is a</p> <p>9 more detailed -- more detailed regulation</p> <p>10 regarding certain statutory provisions. So if</p> <p>11 a statute is passed, Congress might say in the</p> <p>12 statute and any regulation that DEA promulgates</p> <p>13 pursuant to this -- or DEA must promulgate</p> <p>14 regulations pursuant to this section.</p> <p>15 And what the regulations are are</p> <p>16 just that. It's a more detailed analysis of</p> <p>17 what the statute is.</p> <p>18 Q. So you've got the Controlled</p> <p>19 Substances Act, which is the statute.</p> <p>20 A. Yes.</p> <p>21 Q. And then you've got the C.F.R.</p> <p>22 provision related to the Controlled Substances</p> <p>23 Act, which provides more detail about what to</p> <p>24 do.</p> <p>25 Fair?</p>

<p style="text-align: right;">Page 533</p> <p>1 A. Yes.</p> <p>2 Q. So let's take a look at Exhibit 10,</p> <p>3 the -- the C.F.R. provision.</p> <p>4 You're familiar with this</p> <p>5 regulation, obviously based on your work in</p> <p>6 antidiversion, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And specifically what section of the</p> <p>9 C.F.R. is this provision from?</p> <p>10 A. The security requirements under</p> <p>11 Section 1301.</p> <p>12 Q. 1301, and it's specifically 1301.74;</p> <p>13 is --</p> <p>14 A. Yes.</p> <p>15 Q. -- that right?</p> <p>16 Okay. Now, does this -- does this</p> <p>17 regulation set forth the obligation to design</p> <p>18 and operate a system to disclose to the</p> <p>19 registrant suspicious orders of controlled</p> <p>20 substances?</p> <p>21 A. Yes.</p> <p>22 Q. And where is that?</p> <p>23 A. 1301.74(b).</p> <p>24 Q. So that's where the obligation to</p> <p>25 design and operate a system to disclose</p>	<p style="text-align: right;">Page 535</p> <p>1 Rannazzisi.</p> <p>2 Actually, I -- I apologize. Why</p> <p>3 don't you put it back in front of you for one</p> <p>4 moment.</p> <p>5 A. Okay.</p> <p>6 Q. How does this regulation, the C.F.R.</p> <p>7 provision, define a suspicious order?</p> <p>8 A. An order of unusual size, orders</p> <p>9 deviating substantially from a normal pattern,</p> <p>10 and orders of unusual frequency.</p> <p>11 Q. The phrase "unusual size," does this</p> <p>12 regulation do anything more to explain what</p> <p>13 "unusual size" could mean?</p> <p>14 A. The regulation is "of unusual size."</p> <p>15 That's all it says.</p> <p>16 Q. So it doesn't do anything to further</p> <p>17 explain what "unusual size" means, correct?</p> <p>18 A. No. That was explained in the</p> <p>19 meetings and the letters that we sent out. The</p> <p>20 meetings in 2005 that we had face to face with</p> <p>21 each individual distributor, the big three, and</p> <p>22 then some of the others; as well as the letters</p> <p>23 that we sent out to every manufacturing,</p> <p>24 distribution entity in the United States.</p> <p>25 Q. Well, we went over last time -- so I</p>
<p style="text-align: right;">Page 534</p> <p>1 suspicious orders comes from.</p> <p>2 Fair?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Now, in that section, does</p> <p>5 the word or words "know your customer" appear?</p> <p>6 A. No, ma'am.</p> <p>7 Q. Do the words "due diligence" appear</p> <p>8 in this regulation?</p> <p>9 A. No, ma'am.</p> <p>10 Q. Do the words "dispensing data"</p> <p>11 appear in this regulation?</p> <p>12 A. No, ma'am.</p> <p>13 Q. Do the words "customer</p> <p>14 questionnaire" appear in this regulation?</p> <p>15 A. No, ma'am.</p> <p>16 Q. Do the words "electronic order</p> <p>17 monitoring system" appear in this regulation?</p> <p>18 A. No, ma'am.</p> <p>19 Q. Do the words "do not ship" appear in</p> <p>20 this regulation?</p> <p>21 A. No, ma'am.</p> <p>22 Q. Do the word "dispensing data" appear</p> <p>23 in this regulation?</p> <p>24 A. No, ma'am.</p> <p>25 Q. You can set those aside, Mr.</p>	<p style="text-align: right;">Page 536</p> <p>1 won't belabor it --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- where "unusual size" was</p> <p>4 appearing in the various communications.</p> <p>5 Do you remember that?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And with respect to "unusual size,"</p> <p>8 I think -- I think -- well, I think you told me</p> <p>9 that you only attend one of the distributor</p> <p>10 briefings, right?</p> <p>11 A. It was a follow-up briefing.</p> <p>12 Q. So it wasn't one of the original</p> <p>13 briefings?</p> <p>14 A. That's right.</p> <p>15 Q. Okay. But Mr. Mapes and Mr. Wright,</p> <p>16 they attend a lot of the distributor briefers,</p> <p>17 correct?</p> <p>18 A. Yes. They ran the distributor</p> <p>19 briefings --</p> <p>20 Q. Okay. And --</p> <p>21 A. -- for a while, yeah.</p> <p>22 Q. I'm sorry.</p> <p>23 And -- and to the extent then they</p> <p>24 have any recollection any more of those</p> <p>25 meetings, they would have the best recollection</p>

<p style="text-align: right;">Page 537</p> <p>1 of what actually got said in those meetings.</p> <p>2 Fair?</p> <p>3 A. No. There were other people in</p> <p>4 those meetings. But I think consistently they</p> <p>5 were the ones who were in each -- each meeting.</p> <p>6 Q. Okay. And I think you told me that</p> <p>7 you did not typically, in any interactions you</p> <p>8 had with distributors or registrants, define</p> <p>9 yourself what "unusual size" meant, correct?</p> <p>10 A. No. I -- I personally didn't have</p> <p>11 any contact with them discussing that. That</p> <p>12 was done through the liaison and policy section</p> <p>13 or the E-commerce section, the sections that</p> <p>14 handled requests or questions from the</p> <p>15 industry.</p> <p>16 Q. And I think you told me last time</p> <p>17 that there was not necessarily some sort of</p> <p>18 internal set of talking points that allowed</p> <p>19 folks within DEA to further define the term</p> <p>20 "unusual size," correct?</p> <p>21 A. Those questions went to E-commerce</p> <p>22 or liaison and policy. And they were the</p> <p>23 people who were running the meetings. So I --</p> <p>24 I -- I think they just ran off exactly what</p> <p>25 they were telling the distributors during the</p>	<p style="text-align: right;">Page 539</p> <p>1 years --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- and then all of a sudden it</p> <p>4 bumped up into the 20,000 range or the --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- 50,000 range. And then it bumped</p> <p>7 up to the 100,000 range.</p> <p>8 Do you recall that --</p> <p>9 A. Yes.</p> <p>10 Q. -- testimony?</p> <p>11 And you defined the jump all of a</p> <p>12 sudden from 5,000 to 20,000 as perhaps an order</p> <p>13 of unusual size, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And that was a pretty</p> <p>16 straightforward example, in your mind, right?</p> <p>17 A. Yes.</p> <p>18 Q. But you also acknowledged that there</p> <p>19 could be circumstances that were a bit less</p> <p>20 straightforward, correct?</p> <p>21 A. I don't recall that. I said that in</p> <p>22 some cases you -- it could be a crossover</p> <p>23 between two of the three. So an unusual size</p> <p>24 and an unusual frequency could cross over</p> <p>25 together, so...</p>
<p style="text-align: right;">Page 538</p> <p>1 meetings.</p> <p>2 Q. But there was no guidebook or</p> <p>3 playbook that they could refer to that allowed</p> <p>4 them to specifically define "unusual size" a</p> <p>5 certain way, right?</p> <p>6 A. I don't believe there was any</p> <p>7 guidebook. Yes. No.</p> <p>8 Q. Did you ever think about putting one</p> <p>9 together?</p> <p>10 A. No. We thought it was pretty</p> <p>11 straightforward. An unusual size is just that.</p> <p>12 An unusual frequency or -- is just that.</p> <p>13 Q. So when we met last time, you gave</p> <p>14 me an example of unusual size.</p> <p>15 A. Uh-huh.</p> <p>16 Q. You gave me probably several</p> <p>17 examples of unusual size.</p> <p>18 Do you remember that?</p> <p>19 A. Yes.</p> <p>20 Q. And one of those examples, as I</p> <p>21 recall it, was a pharmacy that had been</p> <p>22 ordering 5,000 pills of Hydrocodone every</p> <p>23 month --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- let's say for the last three</p>	<p style="text-align: right;">Page 540</p> <p>1 Q. Well, you agree with me that, in</p> <p>2 some instances, it's harder to define what</p> <p>3 unusual size is, correct, and to determine</p> <p>4 whether unusual size has been met?</p> <p>5 A. No. I don't -- if you know your</p> <p>6 customer, you should know what an unusual size</p> <p>7 is.</p> <p>8 Q. So it can vary from vary to customer</p> <p>9 what an unusual size is.</p> <p>10 Fair?</p> <p>11 A. Within reason.</p> <p>12 Q. So let's -- let's take your 5,000</p> <p>13 example.</p> <p>14 A. Uh-huh.</p> <p>15 Q. 5,000 Hydrocodone a month.</p> <p>16 Would an order the following month</p> <p>17 of 10,000 be suspicious?</p> <p>18 MR. BENNETT: Objection. Incomplete</p> <p>19 hypothetical.</p> <p>20 THE WITNESS: I would say it should</p> <p>21 trigger a -- questions. If you've gone from</p> <p>22 5,000 to 10,000, you've doubled your purchases.</p> <p>23 I think that should trigger some questions,</p> <p>24 yes.</p> <p>25 BY MS. MAINIGI:</p>

<p style="text-align: right;">Page 541</p> <p>1 Q. And it could be that follow-up due 2 diligence might, in fact, reveal good reasons 3 for that bump from 5,000 to 10,000 or not. 4 Fair? 5 A. It -- again, it's a hypothetical. I 6 don't know exactly what the reason is. I -- 7 like -- like the distributors, it's their 8 customer; it's their business decision. They 9 have to look at it, perform due diligence and 10 make that decision whether it's appropriate or 11 not. 12 Q. What -- what can you imagine could 13 be a reason that a bump from 5,000 to 10,000 14 after some due diligence might be legitimate 15 and not cause for concern? 16 MR. BENNETT: Objection. Vague. 17 THE WITNESS: I -- I wouldn't know. 18 I mean in each -- in each instance is 19 different. It's fact-specific on what they're 20 doing at the time. 21 So no. I couldn't answer that. I 22 -- I would have to see a particular set of 23 facts. I'd have to look at all the information 24 that's available to me for that one registrant 25 that's making the purchase. And then I could</p>	<p style="text-align: right;">Page 543</p> <p>1 dissemination techniques whose the 2 effectiveness would be impaired. 3 To the extent you can answer without 4 disclosing confidential techniques or internal 5 deliberative process, you may answer. 6 THE WITNESS: I can't tell you how 7 the information is followed up. But I can tell 8 you that -- I just can't tell you how the 9 information is followed up because I'm 10 prohibitive from doing so. 11 BY MS. MAINIGI: 12 Q. Well, it's fair to say that DEA 13 followed up on reports of suspicious orders, 14 right? 15 A. DEA would follow up on suspicious 16 orders, yeah. 17 Q. So a company that report a 18 suspicious could have an expectation that the 19 DEA would do some follow-up on that suspicious 20 order reporting that they made, correct? 21 MR. BENNETT: Objection to form. 22 THE WITNESS: DEA would -- 23 MR. BENNETT: And scope. 24 Sorry. 25 THE WITNESS: DEA would follow up on</p>
<p style="text-align: right;">Page 542</p> <p>1 make a decision. 2 But just hypothetically, no, I 3 couldn't answer that question. 4 BY MS. MAINIGI: 5 Q. You couldn't answer that question 6 just looking at the pure numbers? 7 A. Again, I would have to look at the 8 pharmacy, where it's situated. Is that -- it's 9 my customer. If it's my customer, I should 10 know all of this stuff. 11 I'd -- I'd want to go and talk to 12 the pharmacist. "Why did you increase this?" 13 I would document everything. I would make sure 14 there's documents showing why I did release 15 that or why I didn't. I would make sure that, 16 if it's suspicious, I file it with DEA to 17 ensure that DEA has that information. 18 Q. And so if it's suspicious and you 19 file it with DEA, would a field investigator go 20 from DEA and go do some further follow-up on 21 that order? 22 MR. BENNETT: Objection. Calls for 23 speculation. Objection. Scope. 24 You are not authorized to disclose 25 investigative or intelligence gathering and</p>	<p style="text-align: right;">Page 544</p> <p>1 the suspicious order. 2 But I -- I don't understand what -- 3 what would the company -- I'm just not -- I 4 guess I'm not catching what -- what the 5 question is. 6 BY MS. MAINIGI: 7 Q. Would the DEA follow up on all 8 suspicious orders reported? 9 A. The -- 10 MR. BENNETT: Objection. Form. 11 Objection. Scope. 12 THE WITNESS: The DEA position is 13 that they would follow up on suspicious orders, 14 yes. 15 BY MS. MAINIGI: 16 Q. My question was slightly more 17 nuanced. 18 Did the DEA follow up on all 19 suspicious orders that were reported to it? 20 MR. BENNETT: Objection. 21 THE WITNESS: I -- I couldn't tell 22 you if every suspicious order was followed up 23 on. 24 BY MS. MAINIGI: 25 Q. Was it your intent that all</p>



<p style="text-align: right;">Page 545</p> <p>1 suspicious orders be followed up on?</p> <p>2 A. It was any intent that the</p> <p>3 suspicious order, as they came in, would be</p> <p>4 looked at and followed up on --</p> <p>5 Q. And that --</p> <p>6 A. -- yes.</p> <p>7 Q. I'm sorry.</p> <p>8 And the suspicious orders that got</p> <p>9 reported were followed up by DEA by the local</p> <p>10 field offices?</p> <p>11 A. That's who would get the suspicious</p> <p>12 orders, yes.</p> <p>13 Q. Okay. And so local field office</p> <p>14 agents would do the follow-up on the suspicious</p> <p>15 order reporting, correct?</p> <p>16 MR. BENNETT: Objection. Scope.</p> <p>17 THE WITNESS: It would be at the</p> <p>18 local level, yes.</p> <p>19 BY MS. MAINIGI:</p> <p>20 Q. And they would send perhaps special</p> <p>21 agents to the facility that had been reported</p> <p>22 as part of the suspicious order?</p> <p>23 MR. BENNETT: Objection. Scope.</p> <p>24 Objection. Speculation.</p> <p>25 THE WITNESS: I -- I can't answer</p>	<p style="text-align: right;">Page 547</p> <p>1 A. Again --</p> <p>2 MR. BENNETT: Same objections.</p> <p>3 THE WITNESS: Again, I can't get</p> <p>4 into that type of detail on suspicious orders.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. I'm just asking generically. I'm</p> <p>7 not asking about any --</p> <p>8 A. Generically --</p> <p>9 Q. -- particular --</p> <p>10 A. I -- I can't -- we would follow up.</p> <p>11 We would follow up.</p> <p>12 Q. So there would be a lot of different</p> <p>13 permutations as to how you could have follow</p> <p>14 up, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And where was all this documented?</p> <p>17 A. It -- it's part of their training.</p> <p>18 Q. So are there -- is -- is there</p> <p>19 documentation that exists of the follow-up of</p> <p>20 suspicious orders?</p> <p>21 A. I -- I don't know if I -- I don't</p> <p>22 recall if there's any documentation within the</p> <p>23 manual on follow-up of suspicious orders. It's</p> <p>24 an investigative tool.</p> <p>25 Q. There was no requirement that the</p>
<p style="text-align: right;">Page 546</p> <p>1 that. I -- they have -- they have their own</p> <p>2 methods of -- of following up. And I think I'm</p> <p>3 prohibited from answering that question.</p> <p>4 BY MS. MAINIGI:</p> <p>5 Q. Well, I'm just asking generically.</p> <p>6 What are the different things that a</p> <p>7 -- that the local field offices might do to</p> <p>8 follow up on a suspicious order?</p> <p>9 A. Again, the local field office would</p> <p>10 take the suspicious order and do -- follow --</p> <p>11 follow whatever investigative process they deem</p> <p>12 appropriate to look at the order and -- and</p> <p>13 determine if the order -- if the order warrants</p> <p>14 further investigation, yes.</p> <p>15 Q. And so would they actually visit the</p> <p>16 facilities?</p> <p>17 MR. BENNETT: Objection. Scope.</p> <p>18 Objection. Speculation.</p> <p>19 THE WITNESS: It just -- again, it's</p> <p>20 fact-specific. Just depends on the order.</p> <p>21 Depends on -- on -- on the particular customer.</p> <p>22 They may; they may not. Just depends.</p> <p>23 BY MS. MAINIGI:</p> <p>24 Q. And so if they didn't visit the</p> <p>25 facility, what would they do perhaps instead?</p>	<p style="text-align: right;">Page 548</p> <p>1 local office DEA agents document their</p> <p>2 follow-up?</p> <p>3 A. That's -- it's -- that's -- again,</p> <p>4 how they document is at the -- the division</p> <p>5 level, what the division decides how they're</p> <p>6 going to document, how they're going to pursue</p> <p>7 a suspicious order.</p> <p>8 But there's nothing written that</p> <p>9 says, once you do a suspicious order, this is</p> <p>10 what you must do. It's part of the</p> <p>11 investigative process.</p> <p>12 Q. Is it possible that they would also</p> <p>13 just choose -- because they didn't need to,</p> <p>14 they'd choose not to document a follow-up on a</p> <p>15 suspicious order?</p> <p>16 MR. BENNETT: Objection.</p> <p>17 Speculation. Objection. Scope.</p> <p>18 THE WITNESS: I -- I -- again, each</p> <p>19 division operates differently. I think that</p> <p>20 most of the investigators are -- are trained</p> <p>21 to -- when they do their follow-up, if -- if it</p> <p>22 is indeed -- warrants further investigation,</p> <p>23 there's something documented.</p> <p>24 But I can't guarantee that happens</p> <p>25 in every case.</p>

<p style="text-align: right;">Page 549</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. Okay. So let me -- let's come back</p> <p>3 to the numbers we were talking about.</p> <p>4 So you -- you thought that an</p> <p>5 increase from 5,000 Hydrocodone a month to</p> <p>6 10,000 Hydrocodone a month may be cause for at</p> <p>7 least further due diligence, right?</p> <p>8 A. I believe yes. Absolutely.</p> <p>9 Q. And it could wind up being a</p> <p>10 suspicious order that's reported, or there may</p> <p>11 be reasons why it didn't need to be reported as</p> <p>12 a suspicious order, correct?</p> <p>13 A. If they --</p> <p>14 MR. BENNETT: Objection.</p> <p>15 Mischaracterizes testimony.</p> <p>16 THE WITNESS: If they resolve the</p> <p>17 suspicious -- the suspicions within the order,</p> <p>18 then they wouldn't have to notify DEA. But if</p> <p>19 they didn't resolve the suspicious nature of</p> <p>20 the order, then they would.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. So a jump from 5,000 to 10,000 after</p> <p>23 some due diligence could, in fact, result in</p> <p>24 there not being a suspicious order that needed</p> <p>25 to be reported, correct?</p>	<p style="text-align: right;">Page 551</p> <p>1 confident that a jump from 5,000 to 20,000 all</p> <p>2 of a sudden would be cause for reporting a</p> <p>3 suspicious order, correct?</p> <p>4 A. Again, just giving me numbers</p> <p>5 without giving me the -- what is actually going</p> <p>6 on, what -- where the pharmacy is situated,</p> <p>7 what the pharmacy is doing, who the pharmacist</p> <p>8 is -- there's just so many different variables</p> <p>9 that is -- should it trigger a due diligence</p> <p>10 analysis? Absolutely. Should it trigger a --</p> <p>11 a -- a suspicious order? Maybe. Probably.</p> <p>12 Because going from 5- to 20,000, that's --</p> <p>13 that's quite a bit.</p> <p>14 But until you do the whole analysis,</p> <p>15 until you look at the pharmacy, until you look</p> <p>16 at what their patterns were, I can't make that</p> <p>17 statement.</p> <p>18 Q. What about a jump from 5,000 one</p> <p>19 month Hydrocodone to 8,000 the next month of</p> <p>20 Hydrocodone?</p> <p>21 A. The -- the answer's --</p> <p>22 MR. BENNETT: Objection. Incomplete</p> <p>23 hypothetical.</p> <p>24 THE WITNESS: The answer is the</p> <p>25 same. I have to see the -- the whole idea</p>
<p style="text-align: right;">Page 550</p> <p>1 MR. UTTER: Object. He answered the</p> <p>2 question three times.</p> <p>3 Go ahead. You can answer again.</p> <p>4 THE WITNESS: No. Again, it's</p> <p>5 hypothetical. I don't know. I don't know what</p> <p>6 -- I don't know what the presentation was. I</p> <p>7 don't know all the background or the particular</p> <p>8 pharmacy. I don't know what they've done in</p> <p>9 the past. I don't know where they're situated.</p> <p>10 I don't know what drugs there are.</p> <p>11 I mean there's so many different</p> <p>12 variables. So no, I can't -- I can't answer</p> <p>13 that. A -- an increase from 5 to 10 should</p> <p>14 trigger due diligence. Maintaining effective</p> <p>15 controls against diversion.</p> <p>16 Looking at your customer, trying to</p> <p>17 figure out what they are doing. Why did they</p> <p>18 have this increase? What's -- why is it</p> <p>19 necessary? What are they doing with the drugs</p> <p>20 that they are sending to this -- this pharmacy</p> <p>21 or hospital, whatever.</p> <p>22 So no. I can't -- based on that</p> <p>23 hypothetical, I can't answer that question.</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. What about -- but you were pretty</p>	<p style="text-align: right;">Page 552</p> <p>1 behind this is the distributor does their due</p> <p>2 diligence. To do their due diligence, they</p> <p>3 have to look at all the variables surrounding</p> <p>4 the particular order.</p> <p>5 Without that, without knowing where</p> <p>6 the pharmacy is, what the location is, I -- I</p> <p>7 couldn't answer the question.</p> <p>8 BY MS. MAINIGI:</p> <p>9 Q. So just looking at the numbers,</p> <p>10 let's say 10,000 -- excuse me.</p> <p>11 Just looking at the numbers of 5,000</p> <p>12 jumping to 8,000 would not be enough the</p> <p>13 trigger, in your mind, automatically a</p> <p>14 reporting of a suspicious order based on</p> <p>15 unusual size.</p> <p>16 Fair?</p> <p>17 MR. BENNETT: Object -- objection.</p> <p>18 Vague.</p> <p>19 THE WITNESS: I think that that</p> <p>20 would trigger the company to do a due diligence</p> <p>21 analysis. That's what it would trigger. And</p> <p>22 if they can't justify, if they can't explain or</p> <p>23 resolve why that increase occurred, then, you</p> <p>24 know, they're required to report it as</p> <p>25 suspicious and not ship.</p>

<p style="text-align: right;">Page 553</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. And then DEA would follow up and</p> <p>3 investigate that suspicious order, right?</p> <p>4 A. DEA would investigate suspicious</p> <p>5 orders as they come in, yes.</p> <p>6 Q. And if DEA found there to be</p> <p>7 validity to a suspicious order that was</p> <p>8 reported, DEA would take some sort of action,</p> <p>9 correct?</p> <p>10 MR. BENNETT: Objection. Incomplete</p> <p>11 hypothetical. Objection. Scope.</p> <p>12 THE WITNESS: Again, it's very</p> <p>13 fact-specific. You have to -- it's -- you</p> <p>14 know, a suspicious order doesn't necessarily</p> <p>15 give us the -- doesn't necessarily give us what</p> <p>16 we need to open an investigation, take a</p> <p>17 registration. That -- that requires</p> <p>18 investigation.</p> <p>19 What a suspicious order does is</p> <p>20 provide us with a -- a starting point -- it's a</p> <p>21 pointer system -- so we could start our</p> <p>22 investigation if that is indeed appropriate.</p> <p>23 So yes. Somewhere down the line</p> <p>24 there would be some kind of potential order to</p> <p>25 show cause if -- if we find that their</p>	<p style="text-align: right;">Page 555</p> <p>1 Q. Now, the documentation, they</p> <p>2 certainly could have documentation at the time</p> <p>3 they were investigating a potential suspicious</p> <p>4 order, correct?</p> <p>5 A. It would be in the customer files or</p> <p>6 due diligence files.</p> <p>7 Q. Is there any requirement in the DEA</p> <p>8 regulations or guidance to maintain due</p> <p>9 diligence documentation for a certain period of</p> <p>10 time?</p> <p>11 A. There's no requirements. But it's</p> <p>12 in the company's best interest to do it.</p> <p>13 Because, if -- if you continue to send drugs</p> <p>14 downstream and there's no explanation why you</p> <p>15 do that and those orders are suspicious in</p> <p>16 nature, they're -- they're unusual -- unusual</p> <p>17 size, frequency or substantially deviating, at</p> <p>18 that point in time you've got to explain why</p> <p>19 you're doing it.</p> <p>20 So if you don't have due diligence</p> <p>21 files, it becomes pretty -- the -- the</p> <p>22 investigators are in the dark.</p> <p>23 Q. So you -- you gave some good advice</p> <p>24 with your 2006, 2007 letters, right?</p> <p>25 A. I believe we did, yes.</p>
<p style="text-align: right;">Page 554</p> <p>1 orders -- their suspicious orders were leading</p> <p>2 to or were involved in diversion, yes.</p> <p>3 But I mean, again, it's a very</p> <p>4 fact-specific -- I need the details. I need to</p> <p>5 know exactly what that pharmacy was doing in</p> <p>6 their ordering patterns.</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. And is it fair to say that</p> <p>9 reasonable minds could vary on whether</p> <p>10 something's a suspicious order?</p> <p>11 MR. BENNETT: Objection. Form.</p> <p>12 THE WITNESS: Again, I think that,</p> <p>13 because it's a suspicious order, and it's a</p> <p>14 decision that's made by the company, it</p> <p>15 involves further investigation by the company</p> <p>16 before they send out a suspicious order or send</p> <p>17 it.</p> <p>18 But in either case, they should have</p> <p>19 documentation showing what they have. So if --</p> <p>20 if it was suspicious, and they sent it anyway,</p> <p>21 they should explain why. Did they resolve the</p> <p>22 suspicion. If not, then they should send us</p> <p>23 the suspicious order.</p> <p>24 It's pretty straightforward.</p> <p>25 BY MS. MAINIGI:</p>	<p style="text-align: right;">Page 556</p> <p>1 Q. Did you put into your letters that</p> <p>2 distributors ought to hold onto their due</p> <p>3 diligence files for a certain period of time?</p> <p>4 A. I believe that due diligence files</p> <p>5 had come up in the -- in the meetings and we</p> <p>6 mentioned due diligence in all of those</p> <p>7 letters.</p> <p>8 And obviously, when you mention due</p> <p>9 diligence, you should have some kind of</p> <p>10 documentation of your due diligence. But that</p> <p>11 was mentioned in the meetings.</p> <p>12 Q. Okay. So let's -- let's just talk</p> <p>13 about with respect to the letters.</p> <p>14 I -- you mentioned due diligence in</p> <p>15 the letters, right?</p> <p>16 A. Yes.</p> <p>17 Q. But you didn't say in the letters</p> <p>18 "Keep your due diligence for a certain period</p> <p>19 of time" or anything like that, did you?</p> <p>20 A. It would -- it would be prudent and</p> <p>21 common sense to, knowing that, if their --</p> <p>22 their methodology was questioned on why they</p> <p>23 were shipping drugs downstream without filing</p> <p>24 suspicious orders, that you would have some</p> <p>25 documentation showing why, showing that you</p>

<p style="text-align: right;">Page 557</p> <p>1 reconciled your suspicions.  2 But if that's not there, I have  3 nothing to look at. I can't make that  4 determination other than my investigation,  5 which is separate.  6 So if you're not covering yourself,  7 if you don't have suspicious -- you don't have  8 due diligence files that contains  9 reconciliation of a suspicious order, then  10 there's -- I -- I don't know how you would  11 explain yourself.  12 Q. So everything you just said right  13 now about holding onto due diligence, is that  14 something you put into your letter?  15 A. I don't recall if it was in the  16 letter or not. But the term "due diligence"  17 was. And the explanation of what due diligence  18 was was in the face-to-face meetings.  19 Q. And what record do you have of the  20 explanation that was provided about holding on  21 to due diligence files in these meetings that  22 were held that you didn't attend?  23 A. I don't have any records on those  24 meetings. I -- when I left, I didn't, you  25 know, pack up the binders and move them with</p>	<p style="text-align: right;">Page 559</p> <p>1 assistant secretary of health and former head  2 of the FDA.  3 Q. He recently stepped down as head of  4 the FDA, right?  5 A. Yes.  6 Q. Do you remember, before he stepped  7 down, he spoke to the issue of opioids and said  8 something to the effect of that -- that FDA  9 certainly shared some responsibility for the  10 opioid crisis?  11 Do you remember that?  12 A. I don't remember that. I don't have  13 any doc --  14 Q. You missed that?  15 MR. BENNETT: Objection. Form.  16 BY MS. MAINIGI:  17 Q. You don't remember seeing the news  18 about that?  19 A. No. If you have a news article, I'd  20 be happy to look at it. But no, I don't have  21 that.  22 Q. Do you -- you've referenced Mr.  23 Rosenberg in your discussions with Mr. Lanier.  24 Do you remember that?  25 A. Yes.</p>
<p style="text-align: right;">Page 558</p> <p>1 me.  2 I'm sure that, if we could find the  3 binders -- I -- I don't know. Because there  4 was a lot of discussion within that meeting  5 that -- on what their obligations were under  6 the Act and under the regulations.  7 I don't know if it was in the -- in  8 the PowerPoint. I don't know if it was in the  9 separate documents. I don't know if it was in  10 -- embedded when we talked about specific  11 purchase -- purchases that were in the ARCOS  12 transaction reports.  13 But due diligence was discussed in  14 that meeting.  15 Q. But you don't have a record of it  16 right now?  17 A. No, ma'am.  18 Q. Now, you said you follow the news on  19 opioids, right?  20 A. Somewhat, yes. Yes.  21 Q. And do you remember -- do you know  22 who Scott Gottlieb is?  23 A. Yes.  24 Q. Who's Scott Gottlieb?  25 A. Well, he was the former secretary --</p>	<p style="text-align: right;">Page 560</p> <p>1 Q. And Mr. Rosenberg was your boss for  2 some period of time?  3 A. Briefly.  4 Q. And -- now, you indicated he was a  5 potential roadblock; is that right?  6 MR. BENNETT: Objection.  7 Mischaracterizes testimony.  8 THE WITNESS: I never said he was a  9 roadblock.  10 BY MS. MAINIGI:  11 Q. Oh, I thought your discussion with  12 Mr. Lanier was that Mr. Rosenberg was a  13 roadblock.  14 A. I never said he was a roadblock.  15 Q. Okay. Mr. Rosenberg testified in  16 front of Congress as well.  17 Do you remember that?  18 A. I don't remember when he testified.  19 And I don't have the content of his testimony.  20 Q. Do you remember Mr. Rosenberg saying  21 that the DEA could have done a better job when  22 it came to the oversight of diversion?  23 MR. UTTER: Object to form.  24 THE WITNESS: Based on what I heard  25 from the last deposition and recently, yeah, I</p>

<p style="text-align: right;">Page 561</p> <p>1 -- I don't have the document in front of me. I  2 don't have his transcripts. But I assume that  3 those are correct. So if he said that.  4 MS. MAINIGI: Let me -- let me see  5 if we can play --  6 THE WITNESS: Okay.  7 MS. MAINIGI: -- a clip. If we can't  8 get it working right now, we'll just go --  9 THE WITNESS: Sure.  10 MS. MAINIGI: -- off the record and  11 play it in a moment.  12 MS. McNAMARA: We have sound issues.  13 We should go off the record.  14 MS. MAINIGI: Why don't we go off  15 the record for one moment. But just bear --  16 bear with us. Just -- if everyone could sit  17 tight, let's see if we can make this work.  18 THE WITNESS: Could you tell me what  19 the date was on that?  20 MS. MAINIGI: Sure. We -- we can --  21 THE WITNESS: Great. Okay.  22 MS. MAINIGI: -- in just a --  23 second.  24 THE VIDEOGRAPHER: Okay. We're  25 going off record.</p>	<p style="text-align: right;">Page 563</p> <p>1 A. Not by letter, no.  2 Q. By any other written format?  3 A. Well, 2008 is when everybody --  4 well, some of the companies -- '7 and '8, when  5 they signed their original MOAs with the  6 government. So I think there was guidance  7 built into that MOA in the form of attorneys --  8 talking to the DEA attorneys and investigators  9 on what's expected of them. That's why they  10 signed the MOAs and they said they would comply  11 with the Act.  12 Q. And that's -- that's DEA talking to  13 individual registrants, correct?  14 A. Yes.  15 Q. Was there any sort of written  16 guidance after the MOAs saying "Everybody take  17 a look at the MOAs and learn from it"?  18 A. The -- the written guidance -- the  19 2007 written guidance had a reference to  20 Southwood Chemical, which explained DEA's  21 position in an agency decision.  22 I'm not -- I'm not -- I don't  23 believe there was any other written  24 documentation after the MOAs and the three  25 letters and the face-to-face visits.</p>
<p style="text-align: right;">Page 562</p> <p>1 Time is 2:06.  2 (A short recess was taken.)  3 THE VIDEOGRAPHER: We're going back  4 on record.  5 Beginning Media File 7.  6 Time is 2:22.  7 BY MS. MAINIGI:  8 Q. Mr. Rannazzisi, you -- you've  9 referenced a few times the letters that you  10 sent to registrants in 2006 and 2007, correct?  11 A. Yes, ma'am.  12 Q. Do you recall sending any more  13 letters like that prior to your departure in  14 2015?  15 A. I don't recall any other letters  16 being sent.  17 Q. So -- and I forget what you told me  18 last time.  19 Did you review those letters from  20 2006 and 2007 as -- as guidance of sorts?  21 A. They -- they were DEA's position on  22 controlled -- on suspicious orders. So I guess  23 you could call them guidance, yes.  24 Q. Okay. And you don't recall sending  25 any further guidance in 2008?</p>	<p style="text-align: right;">Page 564</p> <p>1 Q. And the three letters, two of them  2 were identical, right?  3 A. Yes.  4 Q. So there were really two letters,  5 correct, sent at different times?  6 A. Yes.  7 Q. Okay. And then you don't recall any  8 other letters of that variety being sent to  9 registrants than between 2008 and 2015 when you  10 departed?  11 A. I don't recall of any letters sent.  12 I don't have knowledge of any letters sent at  13 that point -- after that.  14 Q. And with respect to the -- and you  15 would know, right, because you were head of  16 Office of Diversion Control?  17 A. I would hope so, yes.  18 Q. Okay. Now, with respect to these  19 settlements, the settlements related to  20 individual facts and circumstances of those  21 registrants, right?  22 A. Yes.  23 Q. And you were aware that different  24 registrants used different suspicious order  25 monitoring systems?</p>



<p style="text-align: right;">Page 565</p> <p>1 A. In -- in 2008 -- the '6, '7, and '8,  2 I don't know what suspicious order monitoring  3 systems they were using. But they weren't  4 filing suspicious orders. So I -- I don't  5 know.  6 Q. Okay. So registrants -- and let's  7 focus on the period where you didn't send any  8 letters.  9 So you didn't send any letters from  10 2008 to 2015, right?  11 A. As far as I'm aware, that wouldn't  12 -- I didn't send any letters --  13 Q. Okay.  14 A. -- back at that point in time.  15 Q. And in that time period, 2008 to  16 2015, you were aware that different registrants  17 were using different suspicious order  18 monitoring systems, right?  19 A. Well, the monitoring the systems are  20 tailored to the -- each individual registrant's  21 needs. Again, the -- the regulation is  22 specific. The registrant shall create, operate  23 a suspicious order -- or a -- a system which  24 identifies suspicious orders to the registrant.  25 I'm sure they all tailored theirs to</p>	<p style="text-align: right;">Page 567</p> <p>1 same. Depends on what violations were found  2 during those investigations.  3 Q. But the DEA never took the learnings  4 from each one of those settlements and issued  5 some sort of further letter or guidance  6 explaining what the takeaway was, correct?  7 MR. UTTER: Object to form.  8 Go ahead.  9 THE WITNESS: I don't recall of any  10 -- I don't recall of anything that was written  11 that discussed each individual's --  12 registrant's violations and what resulted from  13 those violations.  14 I can tell you that the third letter  15 directed the attention of the reader to the  16 Southwood Pharmaceutical case, which basically  17 explained the agency's position and told them  18 in -- what to look for in those cases.  19 BY MS. MAINIGI:  20 Q. And after that, no more discussion  21 to the registrants about particular  22 settlements, correct?  23 A. I don't believe we talked to -- we  24 talked to the registrants about particular  25 settlements, no.</p>
<p style="text-align: right;">Page 566</p> <p>1 their own specific needs. So I -- I guess  2 that's accurate. Yes. They all have  3 different...  4 Q. So any settlement related to  5 specific facts and circumstances for that  6 registrant, correct?  7 A. I -- I -- I would be guessing.  8 Because I -- I just -- I haven't gone back and  9 looked at, in detail, each settlement to make a  10 determination.  11 Q. Well, you just went over those  12 settlement agreement --  13 A. I didn't --  14 Q. -- with Mr. Lanier --  15 A. -- read them.  16 Q. -- right?  17 A. I didn't read them in detail. I was  18 just looking at certain areas of the  19 settlement. I mean I could -- I could spend  20 time and go through each settlement.  21 I know that, again, the facts and  22 circumstances of each individual case that DEA  23 does is fact-specific. And there's -- there's  24 differences between the cases. So I can't  25 guarantee that each settlement is exactly the</p>	<p style="text-align: right;">Page 568</p> <p>1 Q. And there was a period of time where  2 you were not having distributor briefings; is  3 that right?  4 A. I'm not aware of that. But that  5 came up in the last deposition. I still am not  6 aware of any time where we didn't -- there  7 were -- there was times where we did more than  8 normal, and there's times that we did less.  9 But I don't recall a time where we  10 never did a -- a -- a briefing.  11 Q. Well, from 2008 to 2015, when did  12 you do more distributor briefings?  13 A. It depends on the year. It depends  14 on who was conducting the briefs and how many  15 we could schedule in one year. It --  16 there's -- there was no -- it was just  17 dependent on -- on what we could schedule in  18 headquarters during that time period, so...  19 Q. Why not get more distributors  20 reached by setting out specific written  21 guidance to everybody?  22 A. Well, we did send out specific  23 written guidance in 2006 and 2007. But we  24 wanted face-to-face meetings so we could answer  25 their questions, the questions that they may</p>

<p style="text-align: right;">Page 569</p> <p>1 have.</p> <p>2 We wanted to show them very specific</p> <p>3 instances of orders that were suspicious. We</p> <p>4 wanted to lay out, you know, the ARCOS</p> <p>5 transaction reports. We wanted to explain to</p> <p>6 them what their obligations were.</p> <p>7 So it wasn't a question of -- we</p> <p>8 wanted for them to have access to our -- our</p> <p>9 experts, and, "This is the time. Ask your</p> <p>10 questions."</p> <p>11 Q. And so there were some distributors</p> <p>12 that you may not have even met with for the</p> <p>13 first time until 2010, 2011, correct?</p> <p>14 A. Some of the smaller distributors,</p> <p>15 yes. But I believe that they were offered mini</p> <p>16 briefings when they were inspected.</p> <p>17 So it wasn't a full headquarters</p> <p>18 briefing, but they were -- they were asked</p> <p>19 at -- at the inspection level with diversion</p> <p>20 investigators, "Do you have any questions</p> <p>21 or" -- and just going over different things</p> <p>22 that the diversion investigators were seeing in</p> <p>23 that area, so...</p> <p>24 Q. And so the diversion investigators</p> <p>25 came and did inspections of the distributors.</p>	<p style="text-align: right;">Page 571</p> <p>1 impossible unless we were able to leave</p> <p>2 somebody there for a long period of time,</p> <p>3 weeks.</p> <p>4 Q. And from -- after your December 2007</p> <p>5 letter, you're not -- other than these</p> <p>6 individual distributor briefings you're</p> <p>7 referring to, DEA didn't elaborate in written</p> <p>8 form how to identify orders of unusual size,</p> <p>9 correct?</p> <p>10 A. Again, it was pretty straightforward</p> <p>11 what an order of unusual size or frequently or</p> <p>12 deviating substantially from the normal</p> <p>13 ordering pattern is.</p> <p>14 Q. What was it?</p> <p>15 A. Orders that were unusual size,</p> <p>16 frequency or deviating substantially from the</p> <p>17 normal ordering pattern. It's in the regs.</p> <p>18 It's been there for 40 years.</p> <p>19 Q. That same language.</p> <p>20 A. That same language. Never changed.</p> <p>21 The language has been there since the beginning</p> <p>22 of the Controlled Substances Act.</p> <p>23 Q. Since 1970?</p> <p>24 A. '73, I believe. '72, '73.</p> <p>25 Q. Okay. And from 2008 to the time you</p>
<p style="text-align: right;">Page 570</p> <p>1 Fair?</p> <p>2 A. Yes.</p> <p>3 Q. And they would have taken a look at</p> <p>4 suspicious order monitoring systems in many</p> <p>5 cases, correct?</p> <p>6 A. I would say they would do a cursory</p> <p>7 review. You -- you can't look at a suspicious</p> <p>8 order monitoring system unless -- I -- I --</p> <p>9 unless you're actually watching it work. And</p> <p>10 to watch it work, you have to execute. And to</p> <p>11 execute, you have to follow your protocols and</p> <p>12 procedures.</p> <p>13 So you might have a great suspicious</p> <p>14 order monitoring system. But if you're not --</p> <p>15 if you're not actually executing what's in your</p> <p>16 protocols and procedures, the system is</p> <p>17 worthless.</p> <p>18 Q. And what follow-up did you do to</p> <p>19 determine whether the procedures were being</p> <p>20 followed?</p> <p>21 A. The only way to follow up on whether</p> <p>22 the procedures were being followed was to sit</p> <p>23 somebody there and watch a period of time</p> <p>24 orders coming in and how they were adjudicated.</p> <p>25 And -- and that -- that's almost</p>	<p style="text-align: right;">Page 572</p> <p>1 left, DEA didn't elaborate on how to identify</p> <p>2 orders of unusual frequency, right?</p> <p>3 A. No. I -- I -- I can't tell you how</p> <p>4 many calls came into liaison and policy or to</p> <p>5 regulatory affairs or to local offices. I know</p> <p>6 there were meetings. I know there were</p> <p>7 meetings with distributors where that was</p> <p>8 discussed. I wasn't present at those meetings.</p> <p>9 But I -- I -- I know that there was</p> <p>10 contact between industry, between distributors,</p> <p>11 manufacturers and -- and DEA personnel during</p> <p>12 that time period.</p> <p>13 Q. Did you attend any of those meetings</p> <p>14 personally?</p> <p>15 A. No.</p> <p>16 Q. Did you attend any of those phone</p> <p>17 calls personally?</p> <p>18 A. No.</p> <p>19 Q. Are you aware of any elaboration</p> <p>20 that was provided in written form related to</p> <p>21 how to define an order of unusual frequency</p> <p>22 from 2008 till the time you left?</p> <p>23 A. I don't recall of any written</p> <p>24 document that chose what order of unusual</p> <p>25 frequency is.</p>

<p style="text-align: right;">Page 573</p> <p>1 Q. Okay. Are you aware of any written</p> <p>2 document that elaborated on how to identify an</p> <p>3 order that deviates substantially from a normal</p> <p>4 ordering pattern from 2008 to 2015?</p> <p>5 A. I believe that was in one of the</p> <p>6 letters.</p> <p>7 Q. There was a letter from 2008 --</p> <p>8 A. No. I mean --</p> <p>9 Q. -- to 2015?</p> <p>10 A. -- the 2 -- it was in the 2007</p> <p>11 letter.</p> <p>12 Q. Okay. Let -- from 2008 to 2015, Mr.</p> <p>13 Rannazzisi, was there ever an elaboration by</p> <p>14 DEA on how to identify an order that deviates</p> <p>15 substantially from a normal ordering pattern?</p> <p>16 A. I don't recall any letter after</p> <p>17 2007.</p> <p>18 Q. Is it fair to say, when new</p> <p>19 leadership came into the DEA after you left,</p> <p>20 that they made a commitment to have greater</p> <p>21 communication with registrants about the</p> <p>22 various requirements registrants were subject</p> <p>23 to?</p> <p>24 MR. BENNETT: Objection. Scope.</p> <p>25 THE WITNESS: I don't really know</p>	<p style="text-align: right;">Page 575</p> <p>1 the government; is that true?</p> <p>2 A. I guess they're an investigative arm</p> <p>3 of Congress.</p> <p>4 Q. Okay. Do you recall a GAO report</p> <p>5 related to the DEA from the 2015 time period?</p> <p>6 MR. BENNETT: Objection. Scope.</p> <p>7 THE WITNESS: I recall GAO issuing a</p> <p>8 final report during that time period, yes.</p> <p>9 BY MS. MAINIGI:</p> <p>10 Q. Do you recall being interviewed for</p> <p>11 that report?</p> <p>12 A. I was interviewed for that report.</p> <p>13 Q. And do you recall submitting a</p> <p>14 written response for that report?</p> <p>15 A. Yes.</p> <p>16 MR. BENNETT: I'm going to have a --</p> <p>17 if it's okay -- a continuing objection to</p> <p>18 questions regarding the GAO report as being</p> <p>19 outside the scope of authorization.</p> <p>20 MS. MAINIGI: Okay.</p> <p>21 MR. BENNETT: If that's okay,</p> <p>22 Counsel.</p> <p>23 MS. MAINIGI: Sure.</p> <p>24 MR. BENNETT: So I don't have to</p> <p>25 keep objecting and --</p>
<p style="text-align: right;">Page 574</p> <p>1 what the -- I -- I don't really know what</p> <p>2 their -- their objectives were. I always</p> <p>3 thought that we were very clear in what their</p> <p>4 obligations were dating back to 2005 and</p> <p>5 before.</p> <p>6 I think we had an open lines of</p> <p>7 communication. I don't -- you know, if that's</p> <p>8 what they said or -- that's fine. But I think</p> <p>9 that that would take away from all of the</p> <p>10 conversations and all of the contacts we had</p> <p>11 with the industry, the distributors,</p> <p>12 manufacturers, pharmacies, and even the</p> <p>13 physicians through that whole time period,</p> <p>14 so...</p> <p>15 Q. What's the GAO?</p> <p>16 A. Government Accountability Office.</p> <p>17 Q. And what does the Government</p> <p>18 Accountability Office do?</p> <p>19 A. That's a great question. I don't</p> <p>20 know. Other than investigate -- investigate</p> <p>21 federal agencies, audit federal agencies to</p> <p>22 determine how they're operating.</p> <p>23 Q. That's essentially their job, right?</p> <p>24 A. Yes.</p> <p>25 Q. And they themselves are an arm of</p>	<p style="text-align: right;">Page 576</p> <p>1 MS. MAINIGI: Yes. That's fine.</p> <p>2 We'll take the continuing objection.</p> <p>3 I'm going to give you, Mr.</p> <p>4 Rannazzisi, Exhibit 11, which is a copy, I</p> <p>5 believe, of that GAO report.</p> <p>6 THE WITNESS: Sure.</p> <p>7 (Deposition Exhibit 11 was marked</p> <p>8 for identification.)</p> <p>9 BY MS. MAINIGI:</p> <p>10 Q. Tell me what this GAO report from</p> <p>11 June 2015 is called.</p> <p>12 A. "Prescription Drugs, More DEA</p> <p>13 Information About Registrants' Controlled</p> <p>14 Substance Roles Could Improve Their</p> <p>15 Understanding and Help Ensure Access."</p> <p>16 Q. What does that title mean?</p> <p>17 MR. BENNETT: Objection.</p> <p>18 THE WITNESS: I -- I don't know. I</p> <p>19 didn't --</p> <p>20 MR. BENNETT: Calls for speculation.</p> <p>21 THE WITNESS: -- write the report.</p> <p>22 BY MS. MAINIGI:</p> <p>23 Q. So the name of the report itself is</p> <p>24 "More DEA Information About Registrants'</p> <p>25 Control Substances Roles Could Improve Their</p>

<p style="text-align: right;">Page 577</p> <p>1 Understanding and Help Ensure Access," true?</p> <p>2 A. That's what it says, yes.</p> <p>3 Q. Okay. And do you recall that one of</p> <p>4 the themes in this report was that DEA</p> <p>5 registrants would do better with a greater</p> <p>6 amount of information provided by DEA?</p> <p>7 A. I -- I haven't read this report in a</p> <p>8 while. So I -- I can't tell you exactly what</p> <p>9 the report says.</p> <p>10 Q. Do you remember --</p> <p>11 A. If you --</p> <p>12 Q. I'm sorry.</p> <p>13 A. If you --</p> <p>14 Q. Go ahead.</p> <p>15 A. If you want to direct me to where</p> <p>16 that is in the report, I could actually --</p> <p>17 Q. Well, do you recall what the gist of</p> <p>18 the report was?</p> <p>19 MR. BENNETT: Objection. Form.</p> <p>20 THE WITNESS: The -- the --</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. Let me -- let me put it this way:</p> <p>23 Do you recall that one of the criticisms that</p> <p>24 the GAO had of the DEA was that DEA was not</p> <p>25 communicating enough with its registrants.</p>	<p style="text-align: right;">Page 579</p> <p>1 I think our communication was pretty</p> <p>2 transparent. We -- we -- we communicated fine.</p> <p>3 So again, my response -- and I don't</p> <p>4 recall exactly what I put in the response --</p> <p>5 but I could tell you that I felt that we were</p> <p>6 communicating very well.</p> <p>7 Q. And you told that to the GAO, right?</p> <p>8 A. I -- during my interview, I did.</p> <p>9 Q. And 2015, that's the same year that</p> <p>10 you left the agency; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. And Mr. Rosenberg came to the agency</p> <p>13 in 2015?</p> <p>14 A. Yes. May of 2015.</p> <p>15 MS. MAINIGI: Okay. Let's go ahead</p> <p>16 and show the clip from Mr. Rosenberg. And tell</p> <p>17 me if you recall it.</p> <p>18 (Video clip played.)</p> <p>19 MR. ROSENBERG: "So we have 1.6</p> <p>20 million registrants in the United States."</p> <p>21 SPEAKER: "Right."</p> <p>22 MR. ROSENBERG: "And frankly, if you</p> <p>23 think about it, you know, logically and</p> <p>24 holistically, the overwhelming majority,</p> <p>25 99-plus percent, are our allies in this thing.</p>
<p style="text-align: right;">Page 578</p> <p>1 A. Well, I -- I don't remember that</p> <p>2 being in here. Again, I have to look at it.</p> <p>3 But I would say that, if that was one of the</p> <p>4 cases, I think that they're mistaken. And I</p> <p>5 think my response would have said that.</p> <p>6 Q. So it was not your view that the DEA</p> <p>7 needed to communicate more with registrants?</p> <p>8 A. We were communicating with</p> <p>9 registrants up and down the pharmaceutical</p> <p>10 chain. We were the first office to hold</p> <p>11 pharmacy diversion awareness conferences where</p> <p>12 both pharmacists and distributors attended. We</p> <p>13 were the first ones to hold -- you know, going</p> <p>14 out into the medical community and talking to</p> <p>15 the medical community. We held pharmaceutical</p> <p>16 -- we held distributor conferences,</p> <p>17 manufacturer conferences. We did all that</p> <p>18 during this time period.</p> <p>19 I don't know what more can -- our --</p> <p>20 our web site had information on it. We had a</p> <p>21 call center where a distributor or manufacturer</p> <p>22 or a pharmacist could call the call center. We</p> <p>23 had a liaison and policy group that would take</p> <p>24 phone calls. We had local offices that would</p> <p>25 take phone calls.</p>	<p style="text-align: right;">Page 580</p> <p>1 And I think historically we" --</p> <p>2 (Video clip malfunction.)</p> <p>3 Mr. Rosenberg: "So we have 1.6</p> <p>4 million registrants in the United States.</p> <p>5 SPEAKER: "Right.</p> <p>6 Mr. Rosenberg: "And frankly, if you</p> <p>7 think about it, you know, logically and</p> <p>8 holistically, the overwhelming majority,</p> <p>9 99-plus percent, are our allies in this thing.</p> <p>10 And I think historically we've done a very good</p> <p>11 job of alienating them. I'm being sarcastic.</p> <p>12 What we need is them as partners.</p> <p>13 "Just give you a simple metric. But</p> <p>14 in 2015 we had sort of -- I -- I asked my</p> <p>15 folks, 'How many times have we met with</p> <p>16 industry, with organizations? How many have we</p> <p>17 set down -- sat down with prescribers or</p> <p>18 doctors, with pharmacists?' And we had 300</p> <p>19 such interactions -- or 339 such interactions</p> <p>20 in all of 2015.</p> <p>21 "So far, just in the first six</p> <p>22 months of this year, we're up to 300. We --</p> <p>23 we're going to probably double the number of</p> <p>24 interactions. Now, that doesn't mean they're</p> <p>25 all as good as they should be. But if we're</p>

<p style="text-align: right;">Page 581</p> <p>1 listening to them, we're going to get better.  2 "We've also been opaque. I think  3 we've been slow. I think we've been opaque. I  4 think we haven't responded to them. We're  5 trying to issue guidelines for them more  6 quickly. We're trying to answer their  7 questions."  8 BY MS. MAINIGI:  9 Q. Do you remember hearing that  10 testimony from Mr. Rosenberg?  11 A. I -- I saw clips of that. But I --  12 you know, I didn't -- I haven't seen the  13 whole...  14 Q. Were you still at the agency at that  15 point in time?  16 A. I don't remember when it was, to be  17 honest with you. I don't remember if it was in  18 2015, '16, or before he left. I -- I just --  19 Q. I gath --  20 A. Do you have the date on that?  21 Q. It's 2015.  22 A. When is it?  23 Q. Oh, I'm sorry. 2016.  24 A. Okay. What was the date in 2016?  25 Q. June 22nd, 2016.</p>	<p style="text-align: right;">Page 583</p> <p>1 We met last time during your first  2 deposition.  3 Do you remember our discussion?  4 A. Yes, sir.  5 Q. Mr. Rannazzisi, have you -- have had  6 any meetings with plaintiff's counsel since our  7 last deposition on -- on April 26?  8 A. No.  9 Q. Now, you -- you testified earlier  10 you didn't meet with Mr. Lanier, correct?  11 A. Yes.  12 Q. Have you had any kind of  13 communications with any of the plaintiff's  14 lawyer between your last deposition and today?  15 A. No.  16 Q. No -- no conversations at all?  17 A. No.  18 Q. No phone calls?  19 A. No.  20 Q. No e-mails?  21 A. No.  22 Q. No texts?  23 A. No. I -- quite frankly, I don't  24 know most of these people. The only contact I  25 had was when we were here last time.</p>
<p style="text-align: right;">Page 582</p> <p>1 So after your departure, correct?  2 A. Yeah.  3 Q. I take --  4 A. So he's been there for about a year.  5 Q. I take it you did not agree with his  6 comments that the agency had been too opaque  7 and needed to issue more guidance?  8 A. No, I did not agree with that.  9 MS. MAINIGI: Okay. Thank you.  10 I'm going to pass the witness to one  11 of my colleagues.  12 THE VIDEOGRAPHER: We're going off  13 record.  14 Time is 2:43.  15 (A short recess was taken.)  16 THE VIDEOGRAPHER: We're going back  17 on record.  18 Beginning of Media File No. 8.  19 Time is 2:45.  20 EXAMINATION BY COUNSEL FOR McKESSON  21 BY MR. EPPICH:  22 Q. Good afternoon, Mr. Rannazzisi.  23 Let me reintroduce myself to you.  24 My name is Chris Eppich. I represent McKesson  25 in this litigation.</p>	<p style="text-align: right;">Page 584</p> <p>1 Q. Thank you.  2 Now, when -- when Mr. Lanier was  3 speaking with you earlier this morning, he  4 introduced what he calls a demonstrative and  5 marked as Exhibit 8.  6 Remember this -- this document?  7 A. Yes.  8 Q. See if we can work our magic.  9 Now, there's a couple pages in  10 Exhibit 8 that I'd like to follow up with you  11 on.  12 A. Sure.  13 Q. Now, the first -- the first is this  14 definition that -- that Mr. Lanier went over  15 with you about controlled substances.  16 And you testified earlier that there  17 is a schedule under the Controlled Substances  18 Act for classifying different controlled  19 substance, correct?  20 A. Yes.  21 Q. A Schedule I, a Schedule II.  22 That's what we have written here?  23 A. Yes.  24 Q. There --  25 A. Five schedules.</p>



<p style="text-align: right;">Page 585</p> <p>1 Q. There's -- there's five schedules?</p> <p>2 A. Yes.</p> <p>3 Q. There's also a Schedule III,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And -- and what -- what types of</p> <p>7 drugs do we find under Schedule III?</p> <p>8 A. Schedule III would have, as far as</p> <p>9 opioids, Tylenol with codeine, acetaminophen</p> <p>10 with codeine.</p> <p>11 Q. And, sir, let me interrupt you. I'm</p> <p>12 not asking for what kind of drugs are under</p> <p>13 there.</p> <p>14 What -- what is a broader definition</p> <p>15 of what type of drugs are under Schedule III?</p> <p>16 A. A Schedule III drug has a legitimate</p> <p>17 medical use but a less of a risk of physical</p> <p>18 and psychological dependence than -- than a</p> <p>19 Schedule II drug.</p> <p>20 Q. And you're aware, sir, that</p> <p>21 Hydrocodone was listed under Schedule III until</p> <p>22 2014, correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And I want to, if I could, go to</p> <p>25 another one of Mr. Lanier's demonstratives.</p>	<p style="text-align: right;">Page 587</p> <p>1 Now, there was some discussion</p> <p>2 earlier today about your interview with "60</p> <p>3 Minutes."</p> <p>4 Do you remember that?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And you interviewed with a Mr. Bill</p> <p>7 -- Bill Whitaker.</p> <p>8 A. Yes, sir.</p> <p>9 Q. How many times did you meet with Mr.</p> <p>10 Whitaker?</p> <p>11 A. I met with him for the initial</p> <p>12 interview. And then I met with him when he was</p> <p>13 in D.C. a few months later I guess.</p> <p>14 Q. And how long was your initial</p> <p>15 interview with Mr. Whitaker?</p> <p>16 A. A few hours.</p> <p>17 Q. Was that interview recorded?</p> <p>18 A. I -- I don't know exactly how</p> <p>19 they -- they do their -- those interviews.</p> <p>20 Q. Was there --</p> <p>21 A. I --</p> <p>22 Q. -- a video camera present?</p> <p>23 A. There was a video camera present.</p> <p>24 And I'm sure it was recorded because obviously</p> <p>25 it -- it was taped.</p>
<p style="text-align: right;">Page 586</p> <p>1 And -- and you'll recall this one because he</p> <p>2 drew a -- a person on the -- on the page. And</p> <p>3 he -- he -- this -- this person's depicted on</p> <p>4 Plaintiff's Demonstrative No. 8.</p> <p>5 My -- my -- and I -- my question for</p> <p>6 you, sir, is distributors don't distribute</p> <p>7 controlled substances directly to patients,</p> <p>8 correct?</p> <p>9 A. Distribute to DEA registrants that</p> <p>10 sell or administer to patients, yes.</p> <p>11 Q. And those registrants are</p> <p>12 pharmacies, doctors, hospitals?</p> <p>13 A. Yes, among others.</p> <p>14 Q. So this is actually a doctor or a</p> <p>15 hospital or a pharmacy, right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. The -- the hospitals, doctors and</p> <p>18 pharmacies, they don't ask, "Get me opioids to</p> <p>19 sell," correct?</p> <p>20 They actually submit order forms to</p> <p>21 distributors?</p> <p>22 A. Orders -- order forms on</p> <p>23 Schedule II. Invoices on Schedule III, IV and</p> <p>24 V.</p> <p>25 Q. Thank you.</p>	<p style="text-align: right;">Page 588</p> <p>1 Q. And you met again with him in DC; is</p> <p>2 that what you said?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember what date you met</p> <p>5 with him in D.C.?</p> <p>6 A. No, I don't recall.</p> <p>7 Q. And how long did you meet with</p> <p>8 Mr. Whitaker when you met with him in D.C.?</p> <p>9 A. Maybe an hour or so.</p> <p>10 Q. So you --</p> <p>11 A. He was outside. We were talking.</p> <p>12 Q. So you spent two or three hours with</p> <p>13 Mr. Whitaker?</p> <p>14 A. Probably a little more than that.</p> <p>15 But yeah, you know, several hours.</p> <p>16 Q. Did Mr. Whitaker ask you if there</p> <p>17 was anything DEA could have done differently or</p> <p>18 better to combat the opioid crisis?</p> <p>19 A. I don't recall that specific</p> <p>20 questions. He asked me a lot of question. I</p> <p>21 just don't recall that specific question.</p> <p>22 Q. Did he ask you any questions similar</p> <p>23 to my question?</p> <p>24 A. I just don't recall. It was a while</p> <p>25 ago.</p>

<p style="text-align: right;">Page 589</p> <p>1 Q. Did Mr. Whitaker or the "60 Minutes"</p> <p>2 organization provide you with a tape of your</p> <p>3 interviews?</p> <p>4 A. No.</p> <p>5 Q. A transcript?</p> <p>6 A. No.</p> <p>7 Q. Mr. Rannazzisi, did you receive</p> <p>8 authorization from the DOJ before you spoke to</p> <p>9 Mr. Whitaker or "60 Minutes" or the Washington</p> <p>10 Post?</p> <p>11 A. No. I was retired.</p> <p>12 Q. Earlier today you spoke with Mr.</p> <p>13 Lanier about immediate suspension orders.</p> <p>14 A. Yes, sir.</p> <p>15 Q. Let me find the demonstrative that</p> <p>16 he placed in front of you, sir.</p> <p>17 I believe this was it.</p> <p>18 Do you remember that discussion?</p> <p>19 A. Yes.</p> <p>20 Q. Now, the immediate suspension order</p> <p>21 is an enforcement power possessed by DEA,</p> <p>22 correct?</p> <p>23 A. It's an administrative enforcement</p> <p>24 tool.</p> <p>25 Q. And -- and an immediate suspension</p>	<p style="text-align: right;">Page 591</p> <p>1 A. Yes.</p> <p>2 Q. Now, during you time as the head of</p> <p>3 the ODC, the Office of Diversion Control, DEA</p> <p>4 did not issue an immediate suspension order</p> <p>5 against McKesson, correct?</p> <p>6 A. I -- I just -- I don't recall what</p> <p>7 -- if -- I know we issued orders to show cause</p> <p>8 against McKesson facilities. I don't recall if</p> <p>9 we did an immediate suspension order.</p> <p>10 Q. You don't recall if you -- if -- if</p> <p>11 you issued an immediate suspension order</p> <p>12 against McKesson?</p> <p>13 That's your testimony here today?</p> <p>14 A. Again, we issued orders to show</p> <p>15 cause, which are part of the administrative</p> <p>16 process. I don't recall if there was an</p> <p>17 immediate suspension order issued or not.</p> <p>18 Q. Now, it's true that DEA did not</p> <p>19 issue an -- an -- even an order to show cause</p> <p>20 against McKesson leading to the 2017 settlement</p> <p>21 agreement, true?</p> <p>22 A. I was talking about 2008.</p> <p>23 2017, they were negotiating after I</p> <p>24 left. So I'm not sure what --</p> <p>25 Q. You're not --</p>
<p style="text-align: right;">Page 590</p> <p>1 order is a process by which DEA immediately</p> <p>2 suspends or revokes a registrant's controlled</p> <p>3 substance license, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Now, while -- while you were at the</p> <p>6 DEA, DEA could issue an immediate suspension</p> <p>7 order if there is an immediate danger to the</p> <p>8 public health or safety, correct?</p> <p>9 A. No. It's --</p> <p>10 Q. That -- that wasn't --</p> <p>11 A. -- an imminent --</p> <p>12 Q. -- the standard while you were at</p> <p>13 the DEA?</p> <p>14 A. It's imminent.</p> <p>15 Q. Imminent. Excuse me.</p> <p>16 A. There's a difference between</p> <p>17 "imminent" and "immediate."</p> <p>18 Q. So let's me ask my question again.</p> <p>19 While you were at the DEA, DEA could</p> <p>20 issue an imminent suspension -- excuse me -- an</p> <p>21 imminent suspension -- let me strike that.</p> <p>22 While you were at DEA, DEA could</p> <p>23 issue an immediate suspension order if there is</p> <p>24 an imminent danger to the public health or</p> <p>25 safety, correct?</p>	<p style="text-align: right;">Page 592</p> <p>1 A. -- they did.</p> <p>2 Q. -- sure?</p> <p>3 A. Yes.</p> <p>4 Q. So if -- if we look at Mr. Lanier's</p> <p>5 demonstrative, Exhibit 8, it's true that these</p> <p>6 really aren't examples of orders to show cause</p> <p>7 or immediate suspension orders because you</p> <p>8 can't remember if McKesson received an</p> <p>9 mediation suspension order, and if there was an</p> <p>10 order to show cause, certainly wasn't to 2017,</p> <p>11 correct?</p> <p>12 A. Well --</p> <p>13 MR. UTTER: Object to the form of</p> <p>14 the question.</p> <p>15 Go ahead.</p> <p>16 THE WITNESS: Again, in -- in 2008,</p> <p>17 I know they issued orders to show cause.</p> <p>18 Because I signed them.</p> <p>19 I don't know what happened in 2017.</p> <p>20 And I was under the impression that we were</p> <p>21 talking about administrative actions, which</p> <p>22 would be an order to show cause or an immediate</p> <p>23 suspension order attached to an order to show</p> <p>24 cause.</p> <p>25 They're the same thing. Only one is</p>

<p style="text-align: right;">Page 593</p> <p>1 an immediate suspension, and the other one is</p> <p>2 just a -- a notice.</p> <p>3 Q. Well, let me -- let me just clarify</p> <p>4 your testimony --</p> <p>5 A. Okay.</p> <p>6 Q. -- for the record.</p> <p>7 Sitting here today, you don't recall</p> <p>8 if the DEA issued an immediate suspension order</p> <p>9 against McKesson during your tenure at the DEA,</p> <p>10 correct?</p> <p>11 A. I don't recall that.</p> <p>12 Q. And you don't recall or know if the</p> <p>13 DEA issued an order to show cause against</p> <p>14 McKesson leading to the 2017 settlement</p> <p>15 agreement, correct?</p> <p>16 A. I don't know that for sure. Again,</p> <p>17 that settlement happened well after I was gone.</p> <p>18 Q. Thank you.</p> <p>19 Now, last time we were together, Mr.</p> <p>20 Rannazzisi, we discussed some e-mails that you</p> <p>21 sent from DEA -- your DEA government account to</p> <p>22 your personal account.</p> <p>23 Do you remember that discussion?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. And your personal e-mail address is</p>	<p style="text-align: right;">Page 595</p> <p>1 BY MR. EPPICH:</p> <p>2 Q. Mr. Rannazzisi, if you could turn to</p> <p>3 Page 3 with me of -- of Exhibit 12. I'd like</p> <p>4 to call your attention to what is identified as</p> <p>5 Privileged Doc 4 in Exhibit 12.</p> <p>6 It's -- it's identified as a</p> <p>7 510-page e-mail from July 25, 2005, from</p> <p>8 yourself to NA.</p> <p>9 Do you see that?</p> <p>10 A. Okay.</p> <p>11 Q. And I'm sorry. It's -- it's a</p> <p>12 document, not an e-mail. Pardon me.</p> <p>13 And you see the file name, it says</p> <p>14 "Rannazzisi Home Files, Redwell No. 6"?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Sir, do you keep redwells of -- of</p> <p>17 files at your home with documents from the</p> <p>18 DEA --</p> <p>19 A. I don't --</p> <p>20 Q. -- collected in them?</p> <p>21 A. I don't know what a redwell is.</p> <p>22 Q. Okay. Do you have any reason to</p> <p>23 doubt this -- this document wasn't provided to</p> <p>24 the DOJ when they collected documents from you?</p> <p>25 A. I don't --</p>
<p style="text-align: right;">Page 594</p> <p>1 JRALKES --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- @AOL.com --</p> <p>4 A. Yes.</p> <p>5 Q. -- correct?</p> <p>6 A. Yes.</p> <p>7 Q. Besides yourself, who has access to</p> <p>8 your AOL e-mail account?</p> <p>9 A. Just me.</p> <p>10 Q. No one else has the password to your</p> <p>11 account?</p> <p>12 A. No.</p> <p>13 Q. In addition to forwarding documents</p> <p>14 to your personal account, you also took copies</p> <p>15 of confidential DEA documents home from your</p> <p>16 DEA office, correct?</p> <p>17 A. No.</p> <p>18 MR. EPPICH: No? Okay.</p> <p>19 Well, since your deposition, DOJ has</p> <p>20 identified another 128 documents that you took</p> <p>21 from DEA headquarters.</p> <p>22 Let me introduce to you what we'll</p> <p>23 mark as Exhibit 12.</p> <p>24 (Deposition Exhibit 12 was marked</p> <p>25 for identification.)</p>	<p style="text-align: right;">Page 596</p> <p>1 MR. BENNETT: Objection to form.</p> <p>2 THE WITNESS: I mean this --</p> <p>3 MR. EPPICH: I'll strike --</p> <p>4 THE WITNESS: Document's --</p> <p>5 MR. EPPICH: -- the question.</p> <p>6 THE WITNESS: -- from -- this</p> <p>7 document's from 2005. During that time period,</p> <p>8 a lot of documents were being sent back and</p> <p>9 forth. Because this -- this is an Internet</p> <p>10 strategy. And, you know, I -- we're required</p> <p>11 to work on these Internet strategy. We're</p> <p>12 required to work on every strategy.</p> <p>13 So I would be looking at it, making</p> <p>14 changes and then sending it back. That's --</p> <p>15 that's common.</p> <p>16 BY MR. EPPICH:</p> <p>17 Q. So, sir, the DOJ, under "Description</p> <p>18 of this Document" -- and I -- I don't have a</p> <p>19 copy of this document. I apologize. But the</p> <p>20 DOJ describes the document as "DEA Internet</p> <p>21 Strategy Draft, July 25, '05, Drug Threat" --</p> <p>22 A. Uh-huh.</p> <p>23 Q. -- "Need for an Internet Strategy."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 597</p> <p>1 Q. The DOJ further describes the</p> <p>2 document as discussing, one -- you see the</p> <p>3 No. 1 there -- "DEA Internet strategy, July 25,</p> <p>4 2005, which details law enforcement strategies</p> <p>5 to identify major drug supply organizations in</p> <p>6 order to fully dismantle drug trafficking</p> <p>7 supply organizations."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Now, Mr. Rannazzisi, who are the</p> <p>11 major drug supply organizations that are</p> <p>12 referred to in this document?</p> <p>13 MR. BENNETT: Objection. I believe</p> <p>14 that -- I believe that is privileged</p> <p>15 information. And I would need to talk to Mr.</p> <p>16 Rannazzisi to determine what he knows about the</p> <p>17 document that was withheld.</p> <p>18 To the extent that it was withheld</p> <p>19 based on deliberative process, law enforcement</p> <p>20 and attorney-client privileged communication,</p> <p>21 he would not be able to testify to the contents</p> <p>22 of that document.</p> <p>23 MR. EPPICH: I'll move on, Mr.</p> <p>24 Bennett.</p> <p>25 BY MR. EPPICH:</p>	<p style="text-align: right;">Page 599</p> <p>1 THE WITNESS: I have no idea. I</p> <p>2 don't have the document handy. This was from</p> <p>3 2005.</p> <p>4 MR. EPPICH: Yes, sir.</p> <p>5 BY MR. EPPICH:</p> <p>6 Q. Now, the -- you -- you see the</p> <p>7 notes. The DEA is withholding these documents</p> <p>8 based on the law enforcement privilege and the</p> <p>9 attorney-client privilege, among other things.</p> <p>10 And DEA further provides that</p> <p>11 Exhibit 12 -- in -- in Exhibit 12, under the</p> <p>12 Basis, that Basis column, that the contents of</p> <p>13 this document, if disclosed, would unduly</p> <p>14 compromise the agency's deliberative process</p> <p>15 and jeopardize sensitive predecisional</p> <p>16 communications.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Yet you've been keeping these</p> <p>20 DEA-sensitive communications in your home for</p> <p>21 the past 14 years; isn't that true?</p> <p>22 A. They were -- I guess they were on my</p> <p>23 -- I guess they were on my Internet account.</p> <p>24 But again, they're documents from 2005. We did</p> <p>25 a lot of business that way in 2005.</p>
<p style="text-align: right;">Page 598</p> <p>1 Q. Sir, did --</p> <p>2 MR. BENNETT: And I -- I do want to</p> <p>3 clarify. I think you said it was a 510-page</p> <p>4 document that was withheld. I believe there</p> <p>5 were only 8 pages out of 510 that were</p> <p>6 withheld.</p> <p>7 MR. EPPICH: Thank you. That's not</p> <p>8 representing the document. So thank you for</p> <p>9 that.</p> <p>10 MR. BENNETT: It says: "Pages 18</p> <p>11 through 25 and 142 have been withheld."</p> <p>12 MR. EPPICH: Thank you.</p> <p>13 MR. BENNETT: So it is --</p> <p>14 MR. EPPICH: I missed that.</p> <p>15 MR. BENNETT: No problems there. So</p> <p>16 i believe the remaining 502 pages were</p> <p>17 provided.</p> <p>18 BY MR. EPPICH:</p> <p>19 Q. Now, Mr. Rannazzisi, did the</p> <p>20 strategies discussed in this document include</p> <p>21 changes to the requirements for pharmaceutical</p> <p>22 distributors under the CSA?</p> <p>23 MR. BENNETT: Objection.</p> <p>24 Privileged.</p> <p>25 Same instruction.</p>	<p style="text-align: right;">Page 600</p> <p>1 Q. Now, sir --</p> <p>2 A. And throughout my tenure at -- we</p> <p>3 were doing business that way.</p> <p>4 Q. Sir, I'm not going to be able to</p> <p>5 review every document in this log with you</p> <p>6 today --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- with the time as short as it is.</p> <p>9 But let me direct you to the last page of the</p> <p>10 document.</p> <p>11 And these are documents -- these are</p> <p>12 two documents that are described in the</p> <p>13 Description column as having highly sensitive</p> <p>14 law enforcement financial data concerning</p> <p>15 manufacturers, distributors and pharmacies</p> <p>16 monitored for civil litigation, procedural and</p> <p>17 regulatory compliance of controlled substances.</p> <p>18 Do you see that, sir?</p> <p>19 A. Yes.</p> <p>20 Q. The DEA is not producing these</p> <p>21 documents under the law enforcement privilege.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. But these documents are more than</p> <p>25 just a law enforcement privilege, right?</p>

<p style="text-align: right;">Page 601</p> <p>1 Documents 127 and 128 in this log</p> <p>2 contain the confidential financial data and</p> <p>3 information of defendants to this lawsuit.</p> <p>4 Do you see that?</p> <p>5 A. Again, I -- I -- I see what it says.</p> <p>6 But I don't know what the documents are.</p> <p>7 Q. But you have a copy of these</p> <p>8 documents in your home, correct?</p> <p>9 A. I haven't looked at-- I haven't</p> <p>10 looked for these -- I -- I went through and</p> <p>11 gave them the documents that I had. I don't</p> <p>12 know what these documents are.</p> <p>13 I -- I could tell you that these</p> <p>14 documents, I probably had them because we were</p> <p>15 either going into hearing or we had a court</p> <p>16 appearance where I was preparing for. So...</p> <p>17 Q. Mr. Rannazzisi, how many sensitive</p> <p>18 DEA documents and e-mails do you have in your</p> <p>19 home?</p> <p>20 A. I --</p> <p>21 MR. BENNETT: Objection to Form.</p> <p>22 THE WITNESS: I don't -- I don't</p> <p>23 have any sensitive -- I -- as far as I know, I</p> <p>24 don't have any sensitive or -- or any -- any</p> <p>25 documents like that. I've got to go back and</p>	<p style="text-align: right;">Page 603</p> <p>1 copies of DEA --</p> <p>2 BY MR. EPPICH:</p> <p>3 Q. You don't have a filing cabinet full</p> <p>4 of hard copy DEA documents?</p> <p>5 A. No.</p> <p>6 Q. Mr. Rannazzisi, have you been</p> <p>7 disciplined by the DEA for removing</p> <p>8 DEA-sensitive documents and e-mails from the</p> <p>9 DEA headquarters?</p> <p>10 A. No.</p> <p>11 Q. Last time we were together, we also</p> <p>12 talked about your attention as a consultant and</p> <p>13 expert witness in the opioid litigations.</p> <p>14 Do you remember that testimony?</p> <p>15 A. Yes.</p> <p>16 Q. Now, you're aware that the</p> <p>17 plaintiffs have retained other consultants and</p> <p>18 experts in this case and in the opioid</p> <p>19 litigations in general?</p> <p>20 A. I'm -- yes.</p> <p>21 Q. You're familiar with Craig McCann?</p> <p>22 A. Yes, I am.</p> <p>23 Q. Jim Rafalski?</p> <p>24 A. Yes.</p> <p>25 Q. Seth Whitelaw?</p>
<p style="text-align: right;">Page 602</p> <p>1 look. But I just don't think I have those</p> <p>2 documents.</p> <p>3 BY MR. EPPICH:</p> <p>4 Q. Mr. Rannazzisi, did you ask the</p> <p>5 manufacturers, distributors and pharmacies for</p> <p>6 permission to maintain copies of their</p> <p>7 financial data and information at your home in</p> <p>8 your personal e-mail account?</p> <p>9 A. I don't --</p> <p>10 MR. BENNETT: Objection.</p> <p>11 Argumentative.</p> <p>12 THE WITNESS: I don't know what</p> <p>13 those documents are. And obviously I didn't</p> <p>14 ask any permission because I don't even know</p> <p>15 what those documents are.</p> <p>16 BY MR. EPPICH:</p> <p>17 Q. Did you share any of these or other</p> <p>18 DEA documents with any other person or entity?</p> <p>19 A. No.</p> <p>20 Q. Where do you keep copies of hard</p> <p>21 copy sensitive DEA documents in your home?</p> <p>22 MR. BENNETT: Objection.</p> <p>23 MR. UTTER: Object to form.</p> <p>24 MR. BENNETT: Argumentative.</p> <p>25 THE WITNESS: I don't have any hard</p>	<p style="text-align: right;">Page 604</p> <p>1 A. No.</p> <p>2 Q. Frank Yonker?</p> <p>3 A. Yes.</p> <p>4 Q. Jim Geldhof?</p> <p>5 A. Yes.</p> <p>6 Q. David Schiller?</p> <p>7 A. Yes.</p> <p>8 Q. You attended a meeting in June 2008</p> <p>9 with these experts and consultants along with</p> <p>10 plaintiff's counsel, did you not?</p> <p>11 MR. UTTER: Object to time frame.</p> <p>12 Go ahead.</p> <p>13 THE WITNESS: Yeah. I don't</p> <p>14 recall -- I've attended meetings with Craig</p> <p>15 McCann. But I don't recall any of those people</p> <p>16 being there other than Craig McCann.</p> <p>17 BY MR. EPPICH:</p> <p>18 Q. When was your last meeting with Mr.</p> <p>19 McCann?</p> <p>20 A. It was probably around a year ago.</p> <p>21 Q. And where was that meeting held?</p> <p>22 A. It was probably at his offices.</p> <p>23 Q. What did you discuss with Mr.</p> <p>24 McCann?</p> <p>25 A. That -- if I recall, that -- if I</p>



<p style="text-align: right;">Page 605</p> <p>1 recall, we were talking about ARCOS.</p> <p>2 Q. And what did you share with him</p> <p>3 about ARCOS?</p> <p>4 A. I didn't share anything. We -- they</p> <p>5 -- they -- I was just listening to what they</p> <p>6 were doing with ARCOS information.</p> <p>7 Q. What do you mean when you say what</p> <p>8 were they doing with ARCOS information?</p> <p>9 A. How they were looking at ARCOS</p> <p>10 information that was given to them in</p> <p>11 discovery.</p> <p>12 Q. Did Mr. McCann ask you any</p> <p>13 questions?</p> <p>14 A. I believe the only question that</p> <p>15 came up was on benzodiazepines.</p> <p>16 Q. Did you discuss any of the</p> <p>17 methodologies that Dr. McCann was planning to</p> <p>18 use in an expert report for this litigation?</p> <p>19 A. No. I'm not a -- I'm not a</p> <p>20 technical guy. And it's not -- he was doing</p> <p>21 all the tech work.</p> <p>22 Q. So you had a meeting with him in</p> <p>23 May -- approximately one year ago in 2018.</p> <p>24 What -- what other -- you mentioned</p> <p>25 you may have had other meetings with him.</p>	<p style="text-align: right;">Page 607</p> <p>1 were approximately 30 people, plaintiffs'</p> <p>2 lawyers as well as some experts, where you were</p> <p>3 in attendance sometime last summer?</p> <p>4 A. That was the meeting I was talking</p> <p>5 about, yes, with Dr. --</p> <p>6 Q. Oh, I see.</p> <p>7 A. -- McCann.</p> <p>8 Q. So -- so it was Dr. McCann and --</p> <p>9 and several --</p> <p>10 A. And --</p> <p>11 Q. -- other people?</p> <p>12 A. Yeah. But that -- but none of -- I</p> <p>13 don't recall any of the people that you talked</p> <p>14 about were there.</p> <p>15 Q. So at that meeting with counsel,</p> <p>16 were there any presentations made?</p> <p>17 A. I believe there was a presentation</p> <p>18 made. But again, I wasn't there. I mean I --</p> <p>19 I didn't do any presentation. I was just there</p> <p>20 as an observer and to --</p> <p>21 Q. Were there --</p> <p>22 A. -- answer questions.</p> <p>23 Q. -- any documents provided to you?</p> <p>24 A. No.</p> <p>25 Q. Any documents e-mailed to you after</p>
<p style="text-align: right;">Page 606</p> <p>1 What other meetings did you have</p> <p>2 with Dr. McCann?</p> <p>3 A. I believe that was the only meeting</p> <p>4 I had with him.</p> <p>5 Q. Did you have any other meetings with</p> <p>6 experts that have been disclosed in this</p> <p>7 litigation?</p> <p>8 MR. UTTER: Object. I'm not sure he</p> <p>9 knows who they are.</p> <p>10 Go ahead.</p> <p>11 THE WITNESS: I -- I don't know of</p> <p>12 any -- I'm just thinking to think of who I met</p> <p>13 with. I mean McCann definitely would -- I</p> <p>14 mean, again, I -- I'm not -- I'm not part of</p> <p>15 that MDL litigation, so...</p> <p>16 BY MR. EPPICH:</p> <p>17 Q. Did you provide Mr. -- Dr. McCann</p> <p>18 with any documentation?</p> <p>19 A. No.</p> <p>20 Q. Have you had --</p> <p>21 A. Absolutely not.</p> <p>22 Q. -- any communications that are</p> <p>23 written with Dr. McCann?</p> <p>24 A. No.</p> <p>25 Q. Do you recall a meeting where there</p>	<p style="text-align: right;">Page 608</p> <p>1 the fact?</p> <p>2 A. There -- there were documents that</p> <p>3 went to the attorneys, yes.</p> <p>4 Q. And what do you mean by "documents</p> <p>5 that went to the attorneys," sir?</p> <p>6 A. They were documents related to the</p> <p>7 case that went to the attorneys -- that -- that</p> <p>8 went to the attorneys in both the MDL and I'm</p> <p>9 sure the other litigation that was --</p> <p>10 Q. But -- pardon me.</p> <p>11 A. Yeah.</p> <p>12 Q. And -- and those are documents that</p> <p>13 you sent to the attorneys or someone else --</p> <p>14 A. No, no, no --</p> <p>15 Q. -- sent to the attorneys?</p> <p>16 A. -- no, no. I didn't send anything</p> <p>17 to --</p> <p>18 Q. Okay.</p> <p>19 A. -- the attorneys. I -- I was not</p> <p>20 involved in any doc -- I was there to answer</p> <p>21 questions if they had any. That's the extent</p> <p>22 of my --</p> <p>23 Q. And what was the --</p> <p>24 A. Involvement.</p> <p>25 Q. What was the -- the topic of the</p>

<p style="text-align: right;">Page 609</p> <p>1 PowerPoint presentation?</p> <p>2 A. I just don't remember what -- it --</p> <p>3 it was involved -- involving ARCOS. And I</p> <p>4 don't really recall. I just know it was an</p> <p>5 ARCOS presentation.</p> <p>6 MR. EPPICH: Thank you, Mr.</p> <p>7 Rannazzisi. Let me --</p> <p>8 THE WITNESS: You're welcome.</p> <p>9 MR. EPPICH: -- pass you to my</p> <p>10 colleagues.</p> <p>11 We're -- let's go off the record.</p> <p>12 THE VIDEOGRAPHER: We're off record.</p> <p>13 Time is 3:09.</p> <p>14 (A short recess was taken.)</p> <p>15 THE VIDEOGRAPHER: We're going back</p> <p>16 on record.</p> <p>17 Beginning of Media File 9.</p> <p>18 Time is 3:12.</p> <p>19 MR. EPPICH: Mr. Rannazzisi, just</p> <p>20 one quick housekeeping item.</p> <p>21 I -- I'd marked up the plaintiff's</p> <p>22 demonstrative, Exhibit 8. And I'm going to</p> <p>23 mark that as Exhibit No. 13 of your deposition.</p> <p>24 THE WITNESS: Okay.</p> <p>25 MR. EPPICH: Thank you again.</p>	<p style="text-align: right;">Page 611</p> <p>1 Q. Well, I'd just like to be a little</p> <p>2 bit --</p> <p>3 A. Okay.</p> <p>4 Q. -- more precise.</p> <p>5 A. Okay.</p> <p>6 Q. Would you agree that, enforcing the</p> <p>7 Controlled Substances Act, you believed that</p> <p>8 every individual is entitled to due process in</p> <p>9 every investigation DEA conducts?</p> <p>10 A. I agree that, yeah, due process is a</p> <p>11 very important part of the -- of the overall</p> <p>12 scheme, yes.</p> <p>13 Q. And do you believe that DEA must</p> <p>14 assess the facts as to each individual</p> <p>15 registrant separately to determine whether that</p> <p>16 specific registrant has violated the Controlled</p> <p>17 Substances Act?</p> <p>18 MR. BENNETT: Objection. Scope.</p> <p>19 THE WITNESS: I think I made it</p> <p>20 pretty clear that each -- each investigation is</p> <p>21 fairly fact specific. And we could only go on</p> <p>22 the facts that are generated from the</p> <p>23 investigation, yes.</p> <p>24 BY MR. STEPHENS:</p> <p>25 Q. So you would agree with that</p>
<p style="text-align: right;">Page 610</p> <p>1 THE WITNESS: Thank you.</p> <p>2 (Deposition Exhibit 13 was marked</p> <p>3 for identification.)</p> <p>4 EXAMINATION BY COUNSEL FOR WALMART</p> <p>5 BY MR. STEPHENS:</p> <p>6 Q. Mr. Rannazzisi, good afternoon.</p> <p>7 A. Good afternoon.</p> <p>8 Q. It's good to see you again.</p> <p>9 How are you?</p> <p>10 A. Fine.</p> <p>11 How are you?</p> <p>12 Q. Good.</p> <p>13 My time is short.</p> <p>14 A. Okay.</p> <p>15 Q. So I will try and be quick.</p> <p>16 In your testimony earlier today, you</p> <p>17 had -- you were talking about whether certain</p> <p>18 registrants would comply. And you used terms</p> <p>19 like "they" or "industry." Okay?</p> <p>20 Do you recall that?</p> <p>21 A. I --- I don't recall it. But "they"</p> <p>22 and "industry" -- I don't understand "they" or</p> <p>23 "industry." I generally will say "industry."</p> <p>24 Q. Okay.</p> <p>25 A. I --</p>	<p style="text-align: right;">Page 612</p> <p>1 statement?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Would you also agree that</p> <p>4 every manufacturer, distributor and retail</p> <p>5 chain pharmacy is entitled to individualized</p> <p>6 review of its own conducted by DEA before being</p> <p>7 accused for any potential violation of the</p> <p>8 Controlled Substances Act?</p> <p>9 MR. BENNETT: Objection. Scope.</p> <p>10 THE WITNESS: I don't -- I don't</p> <p>11 think I would necessarily -- I -- repeat the</p> <p>12 question. I want to make sure I get that</p> <p>13 right.</p> <p>14 BY MR. STEPHENS:</p> <p>15 Q. Each manufacturer, distributor and</p> <p>16 retail chain pharmacy is entitled to</p> <p>17 individualized review of its own conduct before</p> <p>18 being accused of potential violations of the</p> <p>19 Controlled Substances Act.</p> <p>20 A. I believe that the process of the</p> <p>21 order to show cause letter of admonition,</p> <p>22 memorandum of agreement is part of that review.</p> <p>23 So if you're asking me does a --</p> <p>24 does a registrant have the ability -- or should</p> <p>25 they have the ability to -- to just forgo the</p>

<p style="text-align: right;">Page 613</p> <p>1 investigation and just have DEA tell us -- tell</p> <p>2 them what their conduct is that violates the</p> <p>3 Act, that's what an order to show cause is for.</p> <p>4 Q. Okay. Let me re -- ask it a little</p> <p>5 bit differently --</p> <p>6 A. Okay.</p> <p>7 Q. -- so I know that we're talking kind</p> <p>8 of apples --</p> <p>9 A. Okay.</p> <p>10 Q. -- to apples.</p> <p>11 Is that fair?</p> <p>12 A. Yeah.</p> <p>13 Q. And let -- let me do it this way:</p> <p>14 If Distributor A is supplying Customer X --</p> <p>15 A. Uh-huh.</p> <p>16 Q. -- and DEA has concerns about what</p> <p>17 Distributor A is doing with Customer X --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- is it fair to charge Distributor</p> <p>20 B with Distributor A's conduct?</p> <p>21 A. I -- I'm just curious. Where did</p> <p>22 Distributor B come -- come from?</p> <p>23 We were talking about A and the</p> <p>24 pharmacy, right? And all of a sudden you're</p> <p>25 talking about Distributor B. Maybe I'm -- I'm</p>	<p style="text-align: right;">Page 615</p> <p>1 Q. Let me sharpen it one more time --</p> <p>2 A. Okay.</p> <p>3 Q. -- Mr. Rannazzisi.</p> <p>4 Let's assume that we're only looking</p> <p>5 at the transactions where Distributor A</p> <p>6 supplies Customer X. That's it for this --</p> <p>7 A. Okay.</p> <p>8 Q. -- hypothetical.</p> <p>9 A. Uh-huh.</p> <p>10 Q. Distributor B is not involved.</p> <p>11 A. Okay.</p> <p>12 Q. Distributor B does not do business</p> <p>13 with Distributor A. Distributor B does not</p> <p>14 supply Customer X.</p> <p>15 A. Okay.</p> <p>16 Q. My point is -- is -- what I'm trying</p> <p>17 to make is a -- what I think is a fairly simple</p> <p>18 point.</p> <p>19 DEA would not blame Distributor B</p> <p>20 for the conduct that it's investigating of</p> <p>21 Distributor A and Customer X.</p> <p>22 A. No. We wouldn't do that.</p> <p>23 Q. Okay. During your tenure as deputy</p> <p>24 assistant administrator, if DEA learned about</p> <p>25 potential diversion at a pain clinic, would you</p>
<p style="text-align: right;">Page 614</p> <p>1 just missing the point here.</p> <p>2 Q. Okay. Let me re-ask the question.</p> <p>3 A. Okay.</p> <p>4 Q. Distributor A supplies to Customer</p> <p>5 X.</p> <p>6 A. Yes.</p> <p>7 Q. Distributor B does not do business</p> <p>8 with Distributor A and does not supply Customer</p> <p>9 X.</p> <p>10 Are you with me?</p> <p>11 A. Yes.</p> <p>12 Q. Do you think it's fair to lump</p> <p>13 Distributor B into any investigation of</p> <p>14 Distributor A and Customer X?</p> <p>15 A. Does distributor -- does Distributor</p> <p>16 B -- are they committing violations?</p> <p>17 Because again, a lot -- there's a</p> <p>18 lot of fact-specific questions I -- I need to</p> <p>19 ask.</p> <p>20 If Distributor B is not doing</p> <p>21 anything, not violating any kind of Controlled</p> <p>22 Substances Act or regulation -- provision or</p> <p>23 regulation, then I -- I guess no. But if</p> <p>24 they're involved in some kind of violation of</p> <p>25 the regulation or the Act, I --</p>	<p style="text-align: right;">Page 616</p> <p>1 expect D -- DEA to investigate the pain clinic?</p> <p>2 A. DEA takes in information and then</p> <p>3 conducts investigations based on that</p> <p>4 information. So yes, there would be an</p> <p>5 investigation.</p> <p>6 Q. So that's a "yes."</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Is it fair to say --</p> <p>9 A. Again, it's fact-specific. But for</p> <p>10 the most part, if it's a rogue pain clinic and</p> <p>11 they have good information, yes, they would</p> <p>12 initiate an investigation.</p> <p>13 Q. Okay. Is it fair to say that you</p> <p>14 would have been troubled as deputy assistant</p> <p>15 administrator if DEA received information about</p> <p>16 diversion at a pain clinic and failed to act on</p> <p>17 that information to stop the potential</p> <p>18 diversion?</p> <p>19 MR. BENNETT: Objection to form.</p> <p>20 MR. UTTER: Same objection.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: I would be surprised</p> <p>23 if -- if DEA received information on a rogue</p> <p>24 pain clinic, a clinic that was obviously</p> <p>25 violating the law and they didn't act on it.</p>

<p style="text-align: right;">Page 617</p> <p>1 I'd be very surprised, yes.</p> <p>2 BY MR. STEPHENS:</p> <p>3 Q. Earlier today we -- we talked about</p> <p>4 immediate suspension orders.</p> <p>5 A. Yes, sir.</p> <p>6 Q. Right.</p> <p>7 And you're familiar --</p> <p>8 A. Uh-huh.</p> <p>9 Q. -- both on the questioning from</p> <p>10 plaintiff's counsel and questioning from</p> <p>11 defendant's counsel. You received questions</p> <p>12 about immediate suspensions orders, what they</p> <p>13 are, and how DEA obtains them.</p> <p>14 A. Yes.</p> <p>15 Q. Fair? All right.</p> <p>16 Would you agree that an immediate</p> <p>17 suspension order gives DEA the ability to</p> <p>18 immediately stop diversion and then backtrack</p> <p>19 and build a criminal case against the diverting</p> <p>20 doctor?</p> <p>21 MR. UTTER: Object to form.</p> <p>22 Go ahead.</p> <p>23 THE WITNESS: Well, you'd -- we</p> <p>24 separate our -- our administrative</p> <p>25 investigations from our criminal</p>	<p style="text-align: right;">Page 619</p> <p>1 prescribe, as you described earlier today --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- DEA has the ability to -- in the</p> <p>4 future, after getting the immediate suspension</p> <p>5 order, to backtrack and work a criminal</p> <p>6 investigation to see if DEA wants to bring a</p> <p>7 criminal indictment against the doctor or the</p> <p>8 pain clinic.</p> <p>9 A. Yes. You could do that.</p> <p>10 Q. All right. When we met last time,</p> <p>11 you had mentioned that at times DEA delayed</p> <p>12 obtaining administrative actions like immediate</p> <p>13 suspension orders while a criminal</p> <p>14 investigation was ongoing.</p> <p>15 Do you recall that testimony?</p> <p>16 MR. BENNETT: Objection. Misstates</p> <p>17 testimony.</p> <p>18 THE WITNESS: No. I don't recall</p> <p>19 that. I -- I recall you discussing that and</p> <p>20 asking me if -- if -- if we had delayed based</p> <p>21 on -- based on active criminal investigations.</p> <p>22 MR. STEPHENS: Right.</p> <p>23 THE WITNESS: Yeah.</p> <p>24 BY MR. STEPHENS:</p> <p>25 Q. And -- and delayed pursuing</p>
<p style="text-align: right;">Page 618</p> <p>1 investigations.</p> <p>2 Can parallel proceedings occur?</p> <p>3 Yes. But for the most part, our -- our</p> <p>4 administrative investigations are just that,</p> <p>5 administrative investigations.</p> <p>6 BY MR. STEPHENS:</p> <p>7 Q. Okay. But after obtaining an</p> <p>8 immediate suspension order, could you backtrack</p> <p>9 and then work the criminal case?</p> <p>10 A. I'm sure you could -- yeah. You --</p> <p>11 you could use the information obtained from an</p> <p>12 immediate -- well, an immediate suspension</p> <p>13 order is not a seizure order. It's a -- it's</p> <p>14 -- it's just an order that stops that</p> <p>15 registrant -- suspends his ability to -- to</p> <p>16 distribute controlled substances. And it gives</p> <p>17 him, again, a opportunity of due process to</p> <p>18 appear in an administrative hearing.</p> <p>19 I don't -- I -- can we use the</p> <p>20 information obtained from that? I -- I -- that</p> <p>21 -- I --</p> <p>22 Q. That's not my question.</p> <p>23 My question simply is, after DEA</p> <p>24 obtains the immediate suspension order and is</p> <p>25 able to stop the doctor from continuing to</p>	<p style="text-align: right;">Page 620</p> <p>1 administrative relief, correct?</p> <p>2 A. That's --</p> <p>3 MR. BENNETT: You're answer did he</p> <p>4 ask the question.</p> <p>5 I don't have the record in front of</p> <p>6 me, Counsel. But I believe that you did ask</p> <p>7 that question. And I believe that we</p> <p>8 instructed the witness that he was not</p> <p>9 authorized to answer that question. And I</p> <p>10 believe that was upheld by the special master.</p> <p>11 So I don't -- I just want to make</p> <p>12 sure the record's clear that he's not saying</p> <p>13 that happened. He's -- and please correct me</p> <p>14 if I'm wrong. He's saying you asked that</p> <p>15 question.</p> <p>16 So if you're asking whether you</p> <p>17 asked the question or not, he remembers that.</p> <p>18 I think that's fine. But I believe in the</p> <p>19 transcript we -- we objected. But again, I</p> <p>20 don't have it in front of me, so...</p> <p>21 BY MR. STEPHENS:</p> <p>22 Q. Mr. Rannazzisi, directing to your</p> <p>23 testimony to April 26, 2009, at Page 171, lines</p> <p>24 9 to 15.</p> <p>25 MR. LANIER: Do you is a copy for</p>

<p style="text-align: right;">Page 621</p> <p>1 the witness?</p> <p>2 MR. STEPHENS: I -- yeah. I will</p> <p>3 give that to him. Just one second.</p> <p>4 BY MR. STEPHENS:</p> <p>5 Q. Were you asked the -- this question?</p> <p>6 Did you give the following response?</p> <p>7 "Mr. Rannazzisi, did the Office of</p> <p>8 Diversion Control ever delay an administrative</p> <p>9 action while a criminal investigation was</p> <p>10 ongoing?"</p> <p>11 Answer: "Yes."</p> <p>12 MR. LANIER: Note -- objection.</p> <p>13 Note the -- there's an objection</p> <p>14 that you're authorized to answer that question</p> <p>15 "yes" or "no" only, is the instruction from Mr.</p> <p>16 Bennett.</p> <p>17 MR. BENNETT: Thank you, Counsel.</p> <p>18 BY MR. STEPHENS:</p> <p>19 Q. All right. Were you asked that</p> <p>20 question, and did you give that answer, sir?</p> <p>21 A. I -- can I see the transcript? I --</p> <p>22 yes.</p> <p>23 Q. It's 171, lines 9 to 15.</p> <p>24 A. Okay. Yes.</p> <p>25 Q. Were you asked that question? Did</p>	<p style="text-align: right;">Page 623</p> <p>1 the way down the page where Mrs. -- Mrs. Brooks</p> <p>2 says: "Are you saying that the U.S. Attorneys</p> <p>3 were asking -- as a former U.S. Attorney, are</p> <p>4 you saying that's the U.S. Attorneys were</p> <p>5 asking or telling DEA not to issue ISOs?"</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Did I read that accurately?</p> <p>9 A. Yes. I'd like to read beforehand</p> <p>10 what was leading up to that though.</p> <p>11 Q. Yeah. And Mr. Rannazzisi, what I'm</p> <p>12 hoping to do here is refresh your recollection</p> <p>13 as to how long the delays were at the DEA on</p> <p>14 filing administrative actions like immediate</p> <p>15 suspension orders.</p> <p>16 MR. BENNETT: Objection. I don't</p> <p>17 believe he is authorized to discuss that. I</p> <p>18 think that was the whole thing that came up in</p> <p>19 the last one. I know he did answer that he</p> <p>20 doesn't remember.</p> <p>21 MR. STEPHENS: I think this door --</p> <p>22 MR. BENNETT: Even if it's</p> <p>23 refreshed, I would object and say that's</p> <p>24 privileged, and he's not authorized to answer</p> <p>25 it.</p>
<p style="text-align: right;">Page 622</p> <p>1 you give that response?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. I also ask you if you could</p> <p>4 recall how long those delays were, and you</p> <p>5 couldn't recall.</p> <p>6 A. That's true.</p> <p>7 Q. Remember that? All right.</p> <p>8 A. Yes, sir.</p> <p>9 MR. STEPHENS: I'd like to mark this</p> <p>10 as the next in order, Bonnie, No. 14.</p> <p>11 And I'll just describe it for the</p> <p>12 record. It is a March 20th, 2018 hearing</p> <p>13 before the Subcommittee of Oversight</p> <p>14 Investigations, Committee on Energy and</p> <p>15 Commerce, House of Representatives.</p> <p>16 And I would direct your attention to</p> <p>17 pages 54 and 55.</p> <p>18 (Deposition Exhibit 14 was marked</p> <p>19 for identification.)</p> <p>20 BY MR. STEPHENS:</p> <p>21 Q. All right. Mr. Rannazzisi, I would</p> <p>22 direct your attention to Page 54 where there is</p> <p>23 a discussion between Mrs. Brooks and Mr.</p> <p>24 Patterson.</p> <p>25 I'm about -- I'm about 60 percent of</p>	<p style="text-align: right;">Page 624</p> <p>1 And I will note that congressional</p> <p>2 testimony does not waive privilege by the</p> <p>3 Department of Justice.</p> <p>4 MR. STEPHENS: Door is wide open.</p> <p>5 MR. BENNETT: I don't believe so,</p> <p>6 Counsel. I disagree.</p> <p>7 MR. STEPHENS: Plaintiff's lawyers</p> <p>8 talked for -- for quite a bit this morning</p> <p>9 about immediate suspension orders.</p> <p>10 MR. BENNETT: That's fine.</p> <p>11 BY MR. STEPHENS:</p> <p>12 Q. So, Mr. Rannazzisi, as far as the --</p> <p>13 the time of the delay, I would direct your</p> <p>14 attention to Page 55. And you'll see at the</p> <p>15 top of the page Mrs. Brooks asked a question to</p> <p>16 Mr. Patterson.</p> <p>17 Now, Mr. Patterson is Robert</p> <p>18 Patterson, the acting administrator for the</p> <p>19 Drug Enforcement Administration in 2018; is</p> <p>20 that right?</p> <p>21 A. Yes. He was the acting</p> <p>22 administrator.</p> <p>23 Q. That is the number one position in</p> <p>24 the Drug Enforcement Administration; is that</p> <p>25 right?</p>



<p style="text-align: right;">Page 625</p> <p>1 A. Well, he was an acting 2 administrator. Yes, he was acting in the 3 number one position. 4 Q. Okay. So -- and -- and let me just 5 read this here to -- to kind of frame it for 6 you. 7 If you see Mrs. Brooks says: "And 8 what is the new guidance? And I appreciate the 9 importance of gathering evidence, but what is 10 the new guidance relative to ISOs and criminal 11 investigations that you're contemplating or 12 that are in place now, and is that guidance in 13 writing?" 14 Mr. Patterson responds right below 15 that: "So it is not formalized. This is 16 conversations that I've been having with the 17 AGAC, the -- you know, the advisory." 18 And then, if you go down a couple 19 paragraphs, you'll see that -- a -- a paragraph 20 there where Mr. Patterson states: "So I 21 understand that balance. The concern I have, 22 like I said, is, if we are using an ISO, it 23 feels awful weird to be signing that ISOs a 24 year after we learned of that problem." 25 Do you see that?</p>	<p style="text-align: right;">Page 627</p> <p>1 testimony. If -- if he's going to be denied 2 the right and -- and objected to the right to 3 answer this question, I'm going to move to 4 strike all of the testimony that Mr. Rannazzisi 5 provided in response to plaintiff counsel's 6 questions regarding immediate suspension 7 orders. 8 SPECIAL MASTER COHEN: You can 9 answer this question with a "yes" or "no" 10 answer. And the reporter can read it back to 11 you if you need it read back to you at 12 15:28.04. 13 THE WITNESS: Okay. Could you 14 please read it back. 15 (The record was read as requested.) 16 MR. UTTER: Object to form. 17 MR. BENNETT: And I will restate my 18 objection. 19 But I understand Special Master's 20 ruling. 21 THE WITNESS: I -- I -- I'm 22 uncomfortable answering this. Because I don't 23 know what Mr. Patterson is discussing. I don't 24 know the case he's talking about. I have no 25 idea what -- this is Mr. Patterson's testimony.</p>
<p style="text-align: right;">Page 626</p> <p>1 A. Yes. 2 Q. Does that refresh your recollection 3 that at times the Drug Enforcement 4 Administration waited up to a year to file an 5 ISO after learning of a problem with a doctor 6 or a pain clinic who might have been diverting 7 controlled substance? 8 MR. BENNETT: Objection. Improper 9 refreshing of recollection. 10 Your question was what's the longest 11 time. He answered he did not know what the 12 longest time is. 13 Your new questions is what is -- has 14 it been a year or more. 15 I don't believe that's a proper 16 refresh. Because those are two different 17 answers. 18 And I don't believe he has been 19 authorized to discuss the length of the delay. 20 We allowed him to say whether there had been 21 delays or not but not the length of any delays. 22 So I believe that's outside the scope and 23 privileged for Mr. Rannazzisi to answer those 24 questions. 25 MR. STEPHENS: This is congressional</p>	<p style="text-align: right;">Page 628</p> <p>1 It's not mine. 2 And -- and, quite frankly, it -- if 3 I said "yes" or "no," I -- I don't know what 4 he's talking about. 5 Mr. Patterson was never in the 6 Office of Diversion Control. And he had very 7 limited knowledge of what the Office of 8 Diversion Control did. He was an acting 9 administrator. So if I say "yes" or "no," it's 10 an answer, but it's not necessarily the correct 11 answer. 12 BY MR. STEPHENS: 13 Q. Mr. Rannazzisi, in the 33 times that 14 you've testified to Congress, did you ever 15 notify Congress that DEA was delaying the 16 filing of immediate suspension orders to allow 17 criminal proceedings or investigations to 18 proceed? 19 A. I don't recall -- in my 20 pharmaceutical testimony, I don't recall ever 21 making that statement to Congress. 22 Q. Did -- did you ever disclose to 23 Congress, in the 33 times that you've testified 24 before Congress, that DEA at times was delaying 25 the filing of immediate suspension orders when</p>

<p style="text-align: right;">Page 629</p> <p>1 DEA understood at that time there might be an 2 imminent threat so that U.S. Attorney's Office 3 could investigate the subject of the ISO? 4 MR. SMITH: Objection to form. 5 THE WITNESS: Again, I don't recall 6 ever talking to Congress, testifying to 7 Congress, presenting the Congress delays due to 8 U.S. Attorney's active investigations. No, I 9 don't. 10 But again, this is Mr. Patterson's 11 testimony. It's not my testimony. And I have 12 no idea what he's drawing from when he makes 13 these statements. 14 BY MR. STEPHENS: 15 Q. All right. As someone who's 16 testified 33 times before Congress, do you have 17 any reason to doubt Acting Administrator 18 Patterson's sworn testimony here? 19 A. I -- it's his sworn testimony. I -- 20 I can't doubt that he's correct. But I don't 21 know what information he's drawing from, who 22 provided the information to him. I -- I have 23 none of that background. So it's difficult for 24 me to say what's correct. 25 I'm sure Mr. Patterson didn't go</p>	<p style="text-align: right;">Page 631</p> <p>1 MR. BENNETT: Counsel, I believe we 2 are now at the end of the time for the defense. 3 Thank you very much. 4 I think it's plaintiff's turn now. 5 MR. LANIER: All right. Let's go 6 off the record to make the shift, please. 7 THE VIDEOGRAPHER: We're going off 8 record. 9 Time is 3:33. 10 (A short recess was taken.) 11 THE VIDEOGRAPHER: We are going back 12 on record. 13 Beginning of Media File 10. 14 Time is 3:40. 15 EXAMINATION BY COUNSEL FOR PLAINTIFFS 16 BY MR. LANIER: 17 Q. Okay. Mr. Rannazzisi, Mark Lanier 18 again for the -- the claimants in this case. 19 And what I'd like to do is give you, 20 again, a roadmap of where we're going. It's 21 not complicated. 22 A. Okay. 23 Q. Basically it's clean-up. I want to 24 clean up some questions you were asked and some 25 subject areas. Okay?</p>
<p style="text-align: right;">Page 630</p> <p>1 before Congress an lie. But in the same token, 2 I don't know where this information came from. 3 Q. During your tenure as deputy admin 4 -- assistant administrator, did DEA provide 5 distributors with national monthly average of 6 dosage units of oxycodone purchased by all 7 registered pharmacies in the United States? 8 A. During my tenure, there was summary 9 -- there were summary ARCOS reports that didn't 10 identify -- there were summary ARCOS reports 11 with no identification of the distributors or 12 pharmacies. It was by ZIP code. And it talks 13 about how much of a base -- base -- basic class 14 was going into specific areas within the 15 country. 16 Actually, all ZIP codes, if I'm not 17 mistaken. It's still on -- well, it was on the 18 web site up -- up to a year ago. I don't know 19 if it's still there. 20 Q. Would that include national monthly 21 average of dosage units of a specific 22 controlled substance? 23 A. I just don't recall. There were 24 several reports. I think there was eight 25 different reports in that --</p>	<p style="text-align: right;">Page 632</p> <p>1 A. Yes, sir. 2 Q. All right. In that regard, you were 3 asked a set of questions by one of the lawyers 4 who ask you about did you ever make an effort 5 to change the law. 6 Do you remember being asked those 7 questions? 8 A. Yes. 9 Q. Now, you testified over -- or around 10 33 times, was the best of your memory, correct? 11 A. Yes. 12 Q. Was the law good as the law existed, 13 while you were there, as long as that law was 14 being followed? 15 MR. EPPICH: Objection. Form. 16 Vague. 17 THE WITNESS: The -- in my opinion, 18 the law was fine the way it was presented in 19 the Controlled Substances Act and regulations. 20 BY MR. LANIER: 21 Q. Is the key whether or not it was 22 followed? 23 A. That's -- 24 MR. EPPICH: Objection. Form. 25 THE WITNESS: -- basically it. If</p>

<p style="text-align: right;">Page 633</p> <p>1 -- if the -- if the -- the statute and the 2 regulations were followed, it would 3 significantly, not totally eliminate, 4 diversion. 5 BY MR. LANIER: 6 Q. All right. In this regard, sir, one 7 more question about efforts to change the law. 8 You understand that the woman asking 9 that represents one of the distributors in this 10 case, one of the big three distributors in the 11 United States of America? 12 MR. EPPICH: Objection. 13 BY MR. LANIER: 14 Q. Did you know that? 15 MR. EPPICH: Objection. 16 THE WITNESS: I -- yes. 17 BY MR. LANIER: 18 Q. Yeah. 19 My question is do -- did you at the 20 DEA have the number, size, quantity, budget of 21 lobbyists that the pharmaceutical companies and 22 their distributors had? 23 MS. McNAMARA: Objection to form. 24 MR. EPPICH: Objection. Scope. 25 MR. BENNETT: Objection to form and</p>	<p style="text-align: right;">Page 635</p> <p>1 Q. Do you remember this coming out from 2 the Washington Post in 2017? 3 A. Yes. 4 Q. And if you'll look at the second 5 page, you'll see that the law and -- that 6 they're talking about: "Passing was the 7 crowning achievement of a multifaceted campaign 8 by the drug industry to weaken aggressive DEA 9 enforcement efforts against drug distribution 10 companies that were supplying corrupt doctors 11 and pharmacists who peddled narcotics to the 12 black market. The industry worked behind the 13 scenes with lobbyists and key members of 14 Congress, pouring more than a million dollars 15 into their election campaigns." 16 Do you see that? 17 MR. STEPHENS: Object to form. 18 THE WITNESS: Yes. 19 BY MR. LANIER: 20 Q. And so when the -- the lawyer was 21 asking you did you make an effort to change the 22 law, did you pour over a million dollars into 23 election campaigns the way it was reported that 24 the drug industry did? 25 MR. STEPHENS: Object to the form.</p>
<p style="text-align: right;">Page 634</p> <p>1 scope. 2 THE WITNESS: DEA is not allowed to 3 lobby. That would be a violation of federal 4 statute. 5 BY MR. LANIER: 6 Q. So when the pharma people ask you 7 did you, in essence, make an effort to change 8 the law or lobby to change the law, are you 9 even allowed to lobby the way they do? 10 MS. McNAMARA: Objection to form. 11 MR. BENNETT: Objection. Scope. 12 THE WITNESS: No. We're not allowed 13 to lobby Congress. 14 BY MR. LANIER: 15 Q. So we read things like the 16 Washington Post putting out "The Drug 17 Industry's Triumph Over the DEA." Came out in 18 2017. It's got your picture on the front. 19 MR. BENNETT: Counsel, what exhibit 20 number is this? 21 MR. LANIER: This is Exhibit 15. 22 I'm sorry. 23 (Deposition Exhibit 15 was marked 24 for identification.) 25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 636</p> <p>1 THE WITNESS: No, sir. 2 MR. LANIER: All right. 3 THE WITNESS: We're not allowed to 4 do that. 5 BY MR. LANIER: 6 Q. Next set of questions. Next 7 subject. 8 You were asked by the same lawyer 9 about other data that the DEA could have used. 10 Do you remember those questions? 11 A. Yes. 12 Q. I've made a list of information that 13 was available to the manufacturers and 14 distributors and a list of information that was 15 available to you and the DEA. 16 What I'd like to do is go through 17 the manufacturers and distributors and get you 18 to tell me whether or not the DEA had the 19 information or even knows what it is. Okay? 20 You tracking with me? 21 A. Yes, sir. 22 Q. All right. So -- 23 MR. BENNETT: And, Counsel, before 24 you go through your list, I just want to 25 instruct the witness that, to the extent DEA</p>

<p style="text-align: right;">Page 637</p> <p>1 has this information and it's not publicly 2 known, you are not authorized to answer about 3 confidential information that you -- 4 THE WITNESS: Yes, sir. 5 MR. BENNETT: -- do not have. 6 To the extent it's publicly known or 7 you don't know what this is, then you may 8 answer. 9 MR. LANIER: Thank you. 10 BY MR. LANIER: 11 Q. 852 data? 12 A. I have no idea what 852 data is. 13 Q. So when the companies have their 852 14 data, you don't even know what it is, do you? 15 A. No. 16 MR. EPPICH: Object to form. 17 MR. STEPHENS: Objection. 18 THE WITNESS: No. I have no idea. 19 BY MR. LANIER: 20 Q. How about 867 data, as they call it? 21 MR. EPPICH: Object to form. 22 THE WITNESS: I never heard of 867 23 data. 24 BY MR. LANIER: 25 Q. How about 844 data, as they call it?</p>	<p style="text-align: right;">Page 639</p> <p>1 Q. If You can answer. 2 A. Yeah. Yeah. 3 MR. BENNETT: You can answer that. 4 I believe the answer to this question has come 5 out in other depositions, and the -- 6 THE WITNESS: Okay. 7 MR. BENNETT: -- DEA has authorized 8 it. 9 So I am going to object it's beyond 10 the scope of yours. But I'm not going to 11 instruct you not to answer. So you may answer 12 that question -- 13 THE WITNESS: Okay. 14 MR. BENNETT: -- if you know. 15 THE WITNESS: Yes. We -- we have 16 used IMS, IQV data. 17 BY MR. LANIER: 18 Q. Rebate data? 19 MS. McCLURE: Object to form. 20 MR. O'CONNOR: Objection. 21 THE WITNESS: Again, we -- we 22 wouldn't have access to that unless we actually 23 subpoenaed it. 24 BY MR. LANIER: 25 Q. The patient savings card data?</p>
<p style="text-align: right;">Page 638</p> <p>1 MR. EPPICH: Object to form. 2 THE WITNESS: No, sir. 3 BY MR. LANIER: 4 Q. How about charge-back data that they 5 get from their pharmacies? 6 MS. McNAMARA: Objection. Form. 7 MR. EPPICH: Object to form. 8 BY MR. LANIER: 9 Q. Do you have access to that at the 10 DEA that you know of, all of the charge-back 11 data? 12 A. We don't have charge-back data at 13 our -- well, DEA did not have charge-back data 14 at its disposal when we were there unless we 15 subpoenaed it. 16 Q. And you have to have good cause to 17 subpoena it? 18 A. We'd have to have an invest -- 19 MR. EPPICH: Objection. 20 THE WITNESS: We'd have to have an 21 investigation. 22 BY MR. LANIER: 23 Q. Okay. How about IMS or IQV data? 24 MR. EPPICH: Object to form. 25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 640</p> <p>1 MR. EPPICH: Objection. 2 MS. McCLURE: Form. 3 THE WITNESS: Yeah -- no. We 4 wouldn't have access to that. 5 BY MR. LANIER: 6 Q. ARCOS data, we already know. 7 A. Yes. 8 Q. ILR data? 9 MS. McCLURE: Form. 10 THE WITNESS: I don't know what ILR 11 stands for. 12 BY MR. LANIER: 13 Q. Actual orders, the actual order 14 sheets and forms that came in? 15 MR. EPPICH: Object to form. 16 BY MR. LANIER: 17 Q. Were they ever supplied to you? 18 MR. EPPICH: Object to form. 19 BY MR. LANIER: 20 Q. Absent subpoenas? 21 MR. EPPICH: Object to form. 22 MS. McCLURE: Form. 23 THE WITNESS: I don't believe they 24 were supplied to us, no. 25 BY MR. LANIER:</p>

<p style="text-align: right;">Page 641</p> <p>1 Q. 222 forms?</p> <p>2 MR. EPPICH: Object to form.</p> <p>3 THE WITNESS: We maintained the 220</p> <p>4 -- the 222 forms, especially if it's</p> <p>5 electronic.</p> <p>6 BY MR. LANIER:</p> <p>7 Q. Suspicious order forms?</p> <p>8 MR. EPPICH: Object to form.</p> <p>9 BY MR. LANIER:</p> <p>10 Q. Do you know if they were all given</p> <p>11 to you?</p> <p>12 MR. EPPICH: Object to form. Calls</p> <p>13 for speculation.</p> <p>14 THE WITNESS: I -- I -- I don't</p> <p>15 know. I mean they were -- there was a period</p> <p>16 of time where we received very few suspicious</p> <p>17 orders. So I don't know.</p> <p>18 BY MR. LANIER:</p> <p>19 Q. Pharma center data?</p> <p>20 MR. EPPICH: Object to form. Vague.</p> <p>21 THE WITNESS: I -- I've never heard</p> <p>22 of pharma center data.</p> <p>23 BY MR. LANIER:</p> <p>24 Q. So in terms of other data the DEA</p> <p>25 could have used, would you agree with an</p>	<p style="text-align: right;">Page 643</p> <p>1 You remember that?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. But does the Act mandate that</p> <p>4 registrants have effective controls against</p> <p>5 diversion?</p> <p>6 Is that there?</p> <p>7 A. Yes. It's part of --</p> <p>8 MS. McCLURE: Form.</p> <p>9 THE WITNESS: It's part of the</p> <p>10 registration process. It's in 823. And it's</p> <p>11 also in 1301 in the regulations.</p> <p>12 BY MR. LANIER:</p> <p>13 Q. And did the DEA give guidance on</p> <p>14 what due diligence would be in that regard?</p> <p>15 A. Yes. During the meetings and the</p> <p>16 subsequent letters, yes.</p> <p>17 Q. Did -- in other words, over and over</p> <p>18 again?</p> <p>19 MR. EPPICH: Objection. Leading.</p> <p>20 Form.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. LANIER:</p> <p>23 Q. Now, do -- does the DEA at any point</p> <p>24 approve of lawyers trying to read loopholes</p> <p>25 into the law and trying to figure out if</p>
<p style="text-align: right;">Page 642</p> <p>1 assessment that the manufacturers and</p> <p>2 distributors had access to a lot of data that</p> <p>3 the DEA did not?</p> <p>4 MS. McCLURE: Form.</p> <p>5 MR. EPPICH: Object to form and</p> <p>6 characterization.</p> <p>7 BY MR. LANIER:</p> <p>8 Q. Especially absent a subpoena?</p> <p>9 MS. McCLURE: Form.</p> <p>10 MR. EPPICH: Object to form.</p> <p>11 THE WITNESS: Yeah. I -- I don't</p> <p>12 know -- most of that I've never even heard of.</p> <p>13 So I didn't -- no. We wouldn't have access to</p> <p>14 it.</p> <p>15 BY MR. LANIER:</p> <p>16 Q. All right. Next subject.</p> <p>17 You got asked a ton about the</p> <p>18 Controlled Substances Act and what it</p> <p>19 specifically says and what it doesn't</p> <p>20 specifically say.</p> <p>21 Do you remember those questions?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And you pointed out and the lawyer</p> <p>24 pointed out that the red flags you and I</p> <p>25 discussed are not specified in the statute.</p>	<p style="text-align: right;">Page 644</p> <p>1 something's not said exactly the right way,</p> <p>2 they can figure out a way to get away with</p> <p>3 something?</p> <p>4 Is that the joint approach you all</p> <p>5 were envisioning in dealing with this narcotic</p> <p>6 epidemic in America?</p> <p>7 MR. EPPICH: Objection. Form.</p> <p>8 Leading. Argumentative.</p> <p>9 MR. BENNETT: Objection. Form.</p> <p>10 THE WITNESS: We were just trying to</p> <p>11 make sure that they comply with the Act,</p> <p>12 maintain effective controls against diversion,</p> <p>13 so we could limit the amount of people that are</p> <p>14 harmed by these drugs.</p> <p>15 BY MR. LANIER:</p> <p>16 Q. Related question: You were asked</p> <p>17 the DEA could have done better with oversight.</p> <p>18 Do you remember that?</p> <p>19 A. Yes.</p> <p>20 Q. And we got video clips and all the</p> <p>21 rest of the stuff.</p> <p>22 Do you remember my analogy about</p> <p>23 driving through a school zone speeding?</p> <p>24 A. Yes, sir.</p> <p>25 Q. If a police officer could have</p>



<p style="text-align: right;">Page 645</p> <p>1 written more tickets for speeding than the</p> <p>2 police officer did, does that excuse someone</p> <p>3 who speeds, in your mind?</p> <p>4 MR. EPPICH: Objection. Incomplete</p> <p>5 hypothetical.</p> <p>6 THE WITNESS: No. Based on -- based</p> <p>7 on your previous scenario, no.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. So if a speeder hits a pedestrian,</p> <p>10 would you ever accept from the speeder the idea</p> <p>11 of, "Hey, don't blame me for speeding. The</p> <p>12 cops didn't ever write me a ticket"?</p> <p>13 MR. EPPICH: Objection. Leading. A</p> <p>14 statement is written on the document.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. And -- and as to the specific</p> <p>18 language, did it say A, B or C?</p> <p>19 This is my daughter. It's Rachel.</p> <p>20 A. Oh, hi.</p> <p>21 Q. She's a lawyer too.</p> <p>22 A. I've got a Rachel too.</p> <p>23 Q. Do you?</p> <p>24 A. Yeah.</p> <p>25 Q. Well, I got four daughters but only</p>	<p style="text-align: right;">Page 647</p> <p>1 A. No.</p> <p>2 Q. Next, you got asked: "Well, you</p> <p>3 never instructed the companies to keep their</p> <p>4 files."</p> <p>5 Do you remember that?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Would old files be important in</p> <p>8 monitoring -- in your ongoing monitoring?</p> <p>9 Would bit important that a company</p> <p>10 keep their files so that they can look back at</p> <p>11 them?</p> <p>12 MR. EPPICH: Object to form.</p> <p>13 Leading. And vague.</p> <p>14 THE WITNESS: Absolutely. That's</p> <p>15 the -- the whole idea behind maintaining a due</p> <p>16 diligence file is you have a history of</p> <p>17 purchases. That way you could see what they're</p> <p>18 doing and where they're going with their</p> <p>19 purchases.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. So more to the point for me, I want</p> <p>22 to ask it this way: Did you ever tell a</p> <p>23 company to destroy their records?</p> <p>24 A. No.</p> <p>25 Q. Did you know that the company's knew</p>
<p style="text-align: right;">Page 646</p> <p>1 one Rachel.</p> <p>2 If I tell my daughters, back when</p> <p>3 they were much younger and lived at home and</p> <p>4 cared what I said in -- in these regards, if I</p> <p>5 said, "Clean your room, please," do you think I</p> <p>6 need to specify "pick up your clothes" as part</p> <p>7 of that?</p> <p>8 MR. EPPICH: Object. To the</p> <p>9 hypothetical.</p> <p>10 MR. O'CONNOR: Objection.</p> <p>11 MR. EPPICH: Vague. Form.</p> <p>12 THE WITNESS: No. No.</p> <p>13 BY MR. LANIER:</p> <p>14 Q. Well, I started to do it this way:</p> <p>15 If someone says "Don't murder," does the word</p> <p>16 "kill" have to appear?</p> <p>17 MR. EPPICH: Objection.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MR. LANIER:</p> <p>20 Q. Someone says "Don't steal," do you</p> <p>21 have to put in there "from a supermarket"?</p> <p>22 A. No.</p> <p>23 Q. Someone says "Don't trespass on the</p> <p>24 property," do you have to put "wearing tennis</p> <p>25 shoes"?</p>	<p style="text-align: right;">Page 648</p> <p>1 that they were supposed to keep their records?</p> <p>2 MS. McCLURE: Objection to form.</p> <p>3 MR. EPPICH: Objection. Calls for</p> <p>4 speculation.</p> <p>5 MR. LANIER: Let's don't speculate.</p> <p>6 Let's make it real clear.</p> <p>7 I want to show you Exhibit No. 16.</p> <p>8 (Deposition Exhibit 16 was marked</p> <p>9 for identification.)</p> <p>10 BY MR. LANIER:</p> <p>11 Q. Do you have Exhibit 16 in front of</p> <p>12 you?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Exhibit 16 are industry compliance</p> <p>15 guidelines. These are put out by the HDMA.</p> <p>16 You ever heard of those folks?</p> <p>17 A. Yeah. Healthcare Distribution</p> <p>18 Management Association.</p> <p>19 Q. Yeah.</p> <p>20 That's the one -- these companies</p> <p>21 join together, and they fund this as their --</p> <p>22 their group effort.</p> <p>23 You with me?</p> <p>24 A. Yes.</p> <p>25 MR. EPPICH: Objection. Form.</p>

<p style="text-align: right;">Page 649</p> <p>1 Characterization.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. So this is something that you'll</p> <p>4 find a lot of the opioid companies and</p> <p>5 distributors were members of, and it</p> <p>6 specifically talks about some of these issues.</p> <p>7 If you'll look at the front page --</p> <p>8 MR. EPPICH: Object to form.</p> <p>9 Narrative.</p> <p>10 MR. O'CONNOR: Object to form.</p> <p>11 BY MR. LANIER:</p> <p>12 Q. -- it specifically says -- and this</p> <p>13 is 2008, so that you got a -- and the jury's</p> <p>14 got a date on this.</p> <p>15 You with me?</p> <p>16 A. Yes, sir.</p> <p>17 Q. 2008.</p> <p>18 This says: "Reporting suspicious</p> <p>19 orders and preventing diversion have been</p> <p>20 developed as part of the members distributors</p> <p>21 ongoing commitment to safe and efficient</p> <p>22 distribution of prescription medicines,</p> <p>23 including controlled substance."</p> <p>24 You see that?</p> <p>25 MR. EPPICH: Objection. Foundation.</p>	<p style="text-align: right;">Page 651</p> <p>1 A. -- of performing due diligence.</p> <p>2 Q. In that regard, if you'll look at</p> <p>3 Page 11, the companies themselves, in their</p> <p>4 trade association, specify under Documentation:</p> <p>5 "All investigations should be fully documented,</p> <p>6 and all records of the investigation should be</p> <p>7 retained in an appropriate location within the</p> <p>8 firm."</p> <p>9 Do you see that?</p> <p>10 MR. EPPICH: Object to form.</p> <p>11 Foundation.</p> <p>12 MR. STEPHENS: Object to form.</p> <p>13 THE WITNESS: Yes, sir.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. So before the lawyer ask you in</p> <p>16 front of the jury, "Did you ever tell them they</p> <p>17 had to keep their records?" did the lawyer</p> <p>18 inform you that the trade association had</p> <p>19 already made it abundantly clear going back</p> <p>20 2008?</p> <p>21 MR. EPPICH: Objection form.</p> <p>22 Misstates facts.</p> <p>23 THE WITNESS: No.</p> <p>24 MR. LANIER: By the same token, if</p> <p>25 we want to go back further than that, we can go</p>
<p style="text-align: right;">Page 650</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. And it doesn't blame the DEA. It</p> <p>4 says: "At the center of a sophisticated supply</p> <p>5 chain, distributors are uniquely situated to</p> <p>6 perform due diligence" --</p> <p>7 MR. EPPICH: Objection.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. -- "in order to help support the</p> <p>10 security of the controlled substances."</p> <p>11 Do you see where I read that?</p> <p>12 MR. EPPICH: Objection.</p> <p>13 THE WITNESS: Yes, sir.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. Do you agree with that?</p> <p>16 MR. EPPICH: Objection. Foundation.</p> <p>17 BY MR. LANIER:</p> <p>18 Q. Do you agree with that, sir?</p> <p>19 MR. EPPICH: Scope.</p> <p>20 BY MR. LANIER:</p> <p>21 A. As I've testified before, the</p> <p>22 distributors know their customers. They're the</p> <p>23 ones that can make that determination --</p> <p>24 BY MR. LANIER:</p> <p>25 Q. And --</p>	<p style="text-align: right;">Page 652</p> <p>1 back to the predecessor trade association.</p> <p>2 And we'll mark this as Exhibit No.</p> <p>3 17.</p> <p>4 (Deposition Exhibit 17 was marked</p> <p>5 for identification.)</p> <p>6 BY MR. LANIER:</p> <p>7 Q. So here is Exhibit No. 17. And this</p> <p>8 is the suspicious -- it's upside down --</p> <p>9 monitoring system for the NWDA, and that is the</p> <p>10 pharma trade association.</p> <p>11 You know about that?</p> <p>12 A. I think they were the --</p> <p>13 MR. EPPICH: Objection.</p> <p>14 MS. McCLURE: Form.</p> <p>15 BY MR. LANIER:</p> <p>16 Q. You think they were what?</p> <p>17 A. I think they were the organization</p> <p>18 before HDMA and had.</p> <p>19 Q. Exactly.</p> <p>20 A. Yes.</p> <p>21 Q. And if we look at what they had to</p> <p>22 say, they specifically give the detail on Page</p> <p>23 7.</p> <p>24 "Single suspicious orders. Single</p> <p>25 orders of unusual size or deviation must be</p>

<p style="text-align: right;">Page 653</p> <p>1 reported immediately. The submission of a</p> <p>2 monthly printout of after-the-fact sales will</p> <p>3 not relieve a registrant from the</p> <p>4 responsibility of reporting these single</p> <p>5 excessive or suspicious orders. DEA has</p> <p>6 interpreted 'orders' to mean prior to</p> <p>7 shipment."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 MR. EPPICH: Object. Form.</p> <p>11 Foundation.</p> <p>12 BY MR. LANIER:</p> <p>13 Q. And this is -- the date on this,</p> <p>14 they knew about this in 1984 and 1993.</p> <p>15 MR. EPPICH: Objection. Form.</p> <p>16 MS. McCLURE: Foundation.</p> <p>17 BY MR. LANIER:</p> <p>18 Q. Did you know that was known by them</p> <p>19 way back then?</p> <p>20 MR. EPPICH: Objection to form.</p> <p>21 Assumes facts.</p> <p>22 THE WITNESS: This is the first time</p> <p>23 I've seen this document.</p> <p>24 BY MR. LANIER:</p> <p>25 Q. If they'd lived up to that, your</p>	<p style="text-align: right;">Page 655</p> <p>1 Q. Do you have that in front of you?</p> <p>2 A. Yes.</p> <p>3 MS. MAINIGI: Objection. Scope.</p> <p>4 Objection form.</p> <p>5 BY MR. LANIER:</p> <p>6 Q. Well, this is actually -- this is</p> <p>7 the 2000 -- let's make sure I've got the right</p> <p>8 one.</p> <p>9 This is the 2008 when you were</p> <p>10 there, isn't it?</p> <p>11 A. Yes, sir.</p> <p>12 MR. LANIER: All right. Let me go</p> <p>13 to the next one.</p> <p>14 Here's the 2012 one. We'll mark it</p> <p>15 as Exhibit 18. I gave you the wrong one. And</p> <p>16 I will fix that.</p> <p>17 (Deposition Exhibit 18 was remarked</p> <p>18 for identification.)</p> <p>19 BY MR. LANIER:</p> <p>20 Q. Exhibit 18. This is Cardinal.</p> <p>21 You have Exhibit 18 in front of you?</p> <p>22 A. Yes, sir.</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 BY MR. LANIER:</p> <p>25 Q. Cardinal knew before you ever</p>
<p style="text-align: right;">Page 654</p> <p>1 world would have been a different world,</p> <p>2 wouldn't it?</p> <p>3 MR. EPPICH: Objection. Form. And</p> <p>4 argumentative.</p> <p>5 THE WITNESS: Okay.</p> <p>6 BY MR. LANIER:</p> <p>7 Q. Next. The Cardinal lawyer asked you</p> <p>8 about the objectives of the DEA after you left</p> <p>9 and did they make an objective to try to</p> <p>10 communicate more and things of that nature.</p> <p>11 Recall that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And that's the Cardinal lawyer. She</p> <p>14 represented Cardinal.</p> <p>15 You understand?</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 MR. LANIER: I'm going to hand you</p> <p>18 the Cardinal -- after you left -- agreement to</p> <p>19 settle as marked as Exhibit No. 8 so we can see</p> <p>20 with precision what was done after you left</p> <p>21 with Cardinal Health.</p> <p>22 This is Exhibit No. 18.</p> <p>23 (Deposition Exhibit 18 was marked</p> <p>24 for identification.)</p> <p>25 BY MR. LANIER:</p>	<p style="text-align: right;">Page 656</p> <p>1 left -- because you'll look at the date on this</p> <p>2 one, 2012.</p> <p>3 It's while you were there, right?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Cardinal knew before you left. They</p> <p>6 acknowledged and agreed the obligations</p> <p>7 undertaken in this agreement don't fulfill the</p> <p>8 totality of its obligations to maintain</p> <p>9 effective controls against diversion.</p> <p>10 They already knew that, didn't they?</p> <p>11 MS. MAINIGI: Objection. Form.</p> <p>12 Foundation. Scope.</p> <p>13 THE WITNESS: Yes, sir.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. They already knew and pledged that</p> <p>16 they would try to enhance their existing</p> <p>17 processes and practices for conducting due</p> <p>18 diligence reviews.</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. Already done, right?</p> <p>22 MS. MAINIGI: Objection. Form.</p> <p>23 Foundation. Scope.</p> <p>24 THE WITNESS: Yes, sir.</p> <p>25 BY MR. LANIER:</p>

<p style="text-align: right;">Page 657</p> <p>1 Q. They already agreed to a continued 2 suspension of their authority to handle 3 controlled substances at Lakeland until May of 4 2014 so long as they meet the provisions of 5 what this agreement said. 6 Fair? 7 MS. MAINIGI: Objection. Form. 8 Foundation. Scope. 9 THE WITNESS: Yes, sir. 10 BY MR. LANIER: 11 Q. Did they seem to have any 12 communication problem with you in regard to 13 that? 14 MS. MAINIGI: Objection. Form. 15 Foundation. Scope. 16 THE WITNESS: No. 17 BY MR. LANIER: 18 Q. Next subject. 19 You were asked question about Mr. 20 Rosenberg's testimony, and he said that there 21 were 1.6 million registrants, and 90-some-odd 22 percent seemed to have no trouble complying. 23 A. Yes. 24 Q. You understand, at this point in 25 this case for these counties, we got 23 out of</p>	<p style="text-align: right;">Page 659</p> <p>1 MR. EPPICH: Object to form. 2 MS. MAINIGI: Objection. 3 THE WITNESS: No, sir. 4 BY MR. LANIER: 5 Q. Next subject. 6 She asked you about the GAO report 7 in 2015. 8 Do you remember those questions? 9 A. Yes, sir. 10 Q. And she suggested to you -- and that 11 was Exhibit 11. It's the GAO report. 12 She suggested to you that the GAO 13 report says that the DEA is not communicating 14 with enough registrants. 15 I wrote it down. That's what she 16 told you was the -- a takeaway from the report. 17 Do you remember her saying that? 18 A. Yes. 19 MS. MAINIGI: Objection. 20 BY MR. LANIER: 21 Q. I've actually got it to show the 22 jury instead of talk about it. 23 Here's what it says on Page I in the 24 table of contents. It says: "Registrants vary 25 in extent of interaction with DEA and awareness</p>
<p style="text-align: right;">Page 658</p> <p>1 1.6 million that are defendants in this case? 2 A. Yes, sir. 3 Q. I mean that 1.6 million is every 4 doctor that can write a prescription for 5 opioids; every hospital that can give them to a 6 patient; every pharmacy, whether they follow 7 the law or not. 8 Fair? 9 A. Yes, sir. 10 Q. And so out of that, you've got to 11 sort the good apples from the bad apples. 12 Fair? 13 A. Yes, sir. 14 Q. And just because most people do it 15 right, has that ever been an excuse for those 16 who do it wrong? 17 MS. MAINIGI: Objection. Scope. 18 Form. 19 MR. EPPICH: Objection. Form. 20 THE WITNESS: No, sir. 21 BY MR. LANIER: 22 Q. Just because they say, "But most of 23 the people don't have the problems we have," 24 have you ever found that to be an adequate 25 reason for companies to break the law?</p>	<p style="text-align: right;">Page 660</p> <p>1 of DEA resources. And while generally 2 satisfied, some want additional information." 3 MR. BENNETT: Objection. Scope. 4 BY MR. LANIER: 5 Q. Do you see that? 6 MR. BENNETT: Objection. Scope. 7 This is beyond the authorization for him to 8 talk about the GAO report. 9 May I have a continuing objection to 10 all your GAO report -- 11 MR. LANIER: Yes. 12 MR. BENNETT: -- questions? 13 Thank you, sir. 14 BY MR. LANIER: 15 Q. Do you see that, sir? 16 MR. EPPICH: Object to the 17 foundation. 18 MS. MAINIGI: Form. 19 THE WITNESS: Yes. 20 BY MR. LANIER: 21 Q. I mean that doesn't say that the 22 DEA's not communicating enough with registrants 23 as a takeaway. It says: "Generally people are 24 satisfied, but some want additional 25 information."</p>

<p style="text-align: right;">Page 661</p> <p>1 Fair?</p> <p>2 MR. EPPICH: Object to the form.</p> <p>3 THE WITNESS: Yes, sir.</p> <p>4 BY MR. LANIER:</p> <p>5 Q. By the same token, the same report</p> <p>6 that she talked about but didn't show on Page 1</p> <p>7 says that: "The Center For Disease Control and</p> <p>8 Prevention has declared the U.S. is in the</p> <p>9 midst of an epidemic of prescription overdose</p> <p>10 deaths. In 2013 more than 22,000 Americans</p> <p>11 died from drug overdose as attributable to</p> <p>12 prescription drugs, and most of those deaths,</p> <p>13 more than 16,000, were attributed to</p> <p>14 prescription opioid pain relievers."</p> <p>15 Is that consistent with the</p> <p>16 testimony you gave?</p> <p>17 MR. O'CONNOR: Objection.</p> <p>18 MR. EPPICH: Objection. Form.</p> <p>19 THE WITNESS: Yes, sir.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. It said: "One study estimated that</p> <p>22 the opioid pain" reliver -- "reliever abuse</p> <p>23 cost health" insurance -- "insurers alone" --</p> <p>24 this is just the health insurers. Doesn't</p> <p>25 count police, county and city, first responders</p>	<p style="text-align: right;">Page 663</p> <p>1 Do you remember that?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And I don't see where their fixes</p> <p>4 are.</p> <p>5 MR. EPPICH: Are you looking for</p> <p>6 the original? Exhibit 13.</p> <p>7 MR. LANIER: Exhibit 13? Thank you.</p> <p>8 MR. EPPICH: If you're going to make</p> <p>9 a -- mark this Exhibit 13, can we make a quick</p> <p>10 copy?</p> <p>11 MR. LANIER: No. We don't have time</p> <p>12 for that. I've got a better solution. Thank</p> <p>13 you though. I won't destroy your records.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. Let's take the first one that he</p> <p>16 marked up. He marked up this one where he</p> <p>17 didn't like the idea that I said people say,</p> <p>18 "Get me opioids to sell," because he said,</p> <p>19 "They're not people. They're doctors." And --</p> <p>20 MR. EPPICH: Objection. Misstates.</p> <p>21 BY MR. LANIER:</p> <p>22 Q. -- and hospitals.</p> <p>23 MR. EPPICH: Objection. Misstates.</p> <p>24 MR. LANIER: I don't think I'm</p> <p>25 misstating, but -- but we'll look at it.</p>
<p style="text-align: right;">Page 662</p> <p>1 and all the other -- child care and -- and all</p> <p>2 the other expenses associated. It's only</p> <p>3 health insurers alone.</p> <p>4 You follow me?</p> <p>5 A. Yes, sir.</p> <p>6 MR. EPPICH: Objection to form.</p> <p>7 MR. O'CONNOR: Objection. Form.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. Up to 72.5 --</p> <p>10 MS. McCLURE: Objection. Narrative.</p> <p>11 Commentary.</p> <p>12 BY MR. LANIER:</p> <p>13 Q. Up to 72.5 billion per year. Per</p> <p>14 year.</p> <p>15 Sir, was this a good enough -- a big</p> <p>16 enough problem to where you were willing to put</p> <p>17 your reputation on the line to try and do</p> <p>18 something about it?</p> <p>19 MR. EPPICH: Object to form. Vague.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. LANIER:</p> <p>22 Q. Next subject.</p> <p>23 So another one of the lawyers for</p> <p>24 the companies put up some of my roadmaps and my</p> <p>25 notes and tried to do some fixes to those.</p>	<p style="text-align: right;">Page 664</p> <p>1 BY MR. LANIER:</p> <p>2 Q. So here's what he says. He says:</p> <p>3 "They're not people. They're doctors,</p> <p>4 hospitals and pharmacists."</p> <p>5 You see that?</p> <p>6 A. Yes, sir.</p> <p>7 Q. How many pharmacists are people?</p> <p>8 MR. EPPICH: Objection.</p> <p>9 THE WITNESS: Every one that I know</p> <p>10 is a people -- is a person.</p> <p>11 BY MR. LANIER:</p> <p>12 Q. How many doctors are people?</p> <p>13 A. Every one that it know is a person.</p> <p>14 Q. How many hospitals, not the building</p> <p>15 itself but the folks that make it a hospital</p> <p>16 instead of a zoo, how many of those folks</p> <p>17 inside the hospital are people?</p> <p>18 A. All the patient caregivers are</p> <p>19 people.</p> <p>20 Q. So I may have drawn a person instead</p> <p>21 of a doctor or a hospital full of people or a</p> <p>22 pharmacy full of people, but the bottom line</p> <p>23 doesn't change anything you and I talked about.</p> <p>24 And that is you got to deal with suspicious</p> <p>25 orders when they happen; you can't wait six,</p>

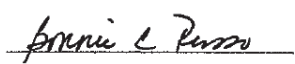


<p style="text-align: right;">Page 665</p> <p>1 eight months later.</p> <p>2 Fair?</p> <p>3 MR. EPPICH: Objection to form.</p> <p>4 Mischaracterization.</p> <p>5 MS. McCLURE: Misstates prior</p> <p>6 testimony.</p> <p>7 MR. EPPICH: Leading.</p> <p>8 THE WITNESS: Yes, sir.</p> <p>9 BY MR. LANIER:</p> <p>10 Q. All right. The other roadmap that</p> <p>11 he took issue with was this one right here.</p> <p>12 It's the definitions.</p> <p>13 Remember that one?</p> <p>14 A. Yes, sir.</p> <p>15 Q. All right. Let's put his in -- in a</p> <p>16 sleeve so I can write on it.</p> <p>17 He said: "Wait. There were five</p> <p>18 categories of controlled substance, and I only</p> <p>19 wrote two of them."</p> <p>20 A. Yes, sir.</p> <p>21 Q. He -- and he wrote a third.</p> <p>22 But you had already said there were</p> <p>23 five; I was just asking you about these two; is</p> <p>24 that fair?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 667</p> <p>1 -- physiological dependence?</p> <p>2 A. Yes.</p> <p>3 Q. All right. Thank you.</p> <p>4 Next subject.</p> <p>5 There was some implication that</p> <p>6 perhaps you've been stashing away some</p> <p>7 documents in your house.</p> <p>8 MR. EPPICH: Objection to the</p> <p>9 narrative.</p> <p>10 BY MR. LANIER:</p> <p>11 Q. Do you remember those questions?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Have you been stashing away some</p> <p>14 documents that you illegally took out of DEA at</p> <p>15 your house?</p> <p>16 A. No --</p> <p>17 MR. EPPICH: Objection to the</p> <p>18 narrative. And misstates.</p> <p>19 THE WITNESS: No, sir.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. If there's any suggestion made to</p> <p>22 the jury that the lawyers for the industry want</p> <p>23 to taint you with the idea that you've secretly</p> <p>24 taken documents home you weren't allowed to,</p> <p>25 has that ever happened to you?</p>
<p style="text-align: right;">Page 666</p> <p>1 Q. Were you playing hide the ball with</p> <p>2 the other ones?</p> <p>3 MR. EPPICH: Objection.</p> <p>4 THE WITNESS: No, sir.</p> <p>5 BY MR. LANIER:</p> <p>6 Q. So No. 3, less risk of physical and</p> <p>7 psychological dependency then a No. 2, does</p> <p>8 that mean no risk?</p> <p>9 A. No.</p> <p>10 Q. So there's still risk?</p> <p>11 A. Yes.</p> <p>12 Q. And Hydrocodone was there until</p> <p>13 2014.</p> <p>14 Where did it get moved to?</p> <p>15 A. Schedule II.</p> <p>16 Q. Why?</p> <p>17 A. Because --</p> <p>18 MR. STEPHENS: Objection.</p> <p>19 THE WITNESS: Based on the HHS, FDA</p> <p>20 and DEA analysis of the drug, it met the</p> <p>21 criteria of a Schedule II controlled substance</p> <p>22 rather than a Schedule III controlled</p> <p>23 substance. It was misplaced in Schedule III.</p> <p>24 BY MR. LANIER:</p> <p>25 Q. High risk of physical psych -- psych</p>	<p style="text-align: right;">Page 668</p> <p>1 MR. EPPICH: Object to form and the</p> <p>2 narrative.</p> <p>3 THE WITNESS: I've never taken</p> <p>4 documents home. I've -- I've worked on</p> <p>5 documents at home. I've worked on documents</p> <p>6 that were transmitted to me at my -- but I've</p> <p>7 never held them for some nefarious reason.</p> <p>8 BY MR. LANIER:</p> <p>9 Q. So you go home, and you work in the</p> <p>10 late hours on these documents.</p> <p>11 Do you get paid overtime for that?</p> <p>12 A. No.</p> <p>13 MR. EPPICH: Objection. Leading.</p> <p>14 BY MR. LANIER:</p> <p>15 Q. As a government worker that we're</p> <p>16 paying with our tax dollars to help keep our</p> <p>17 country safe, you were working at home some</p> <p>18 without getting paid overtime?</p> <p>19 MR. EPPICH: Objection.</p> <p>20 THE WITNESS: Yes. And on the</p> <p>21 weekends too.</p> <p>22 BY MR. LANIER:</p> <p>23 Q. Thank you.</p> <p>24 Next.</p> <p>25 Did you ever divulge any of these</p>

<p style="text-align: right;">Page 669</p> <p>1 DEA documents to anyone?</p> <p>2 A. No.</p> <p>3 Q. The log that we were shown is what's</p> <p>4 called a privilege log.</p> <p>5 Do you know what that is?</p> <p>6 A. I believe it's a log that the</p> <p>7 department keeps in order to explain why</p> <p>8 they're not going to release a document.</p> <p>9 Q. Yeah. In other words, that is we're</p> <p>10 not giving them out, at least in their</p> <p>11 entirety, right?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Now, if the McKesson lawyer wants</p> <p>14 those documents that the government has told</p> <p>15 you, your ex-employer told you are not to be</p> <p>16 given out, are you going to voluntarily give</p> <p>17 them to the McKesson lawyer just because</p> <p>18 they're begging you for them?</p> <p>19 MR. EPPICH: Object to the form.</p> <p>20 And misstates the testimony.</p> <p>21 THE WITNESS: No.</p> <p>22 BY MR. LANIER:</p> <p>23 Q. Are you going to continue to</p> <p>24 withhold those documents the way the government</p> <p>25 says should be done for the national interest</p>	<p style="text-align: right;">Page 671</p> <p>1 MR. EPPICH: Objection to form.</p> <p>2 Calls for speculation.</p> <p>3 MS. MAINIGI: Scope.</p> <p>4 THE WITNESS: I have no idea.</p> <p>5 BY MR. LANIER:</p> <p>6 Q. Do you know if Linden Barber may</p> <p>7 have taken any?</p> <p>8 MR. EPPICH: Objection.</p> <p>9 MS. MAINIGI: Objection. Form.</p> <p>10 Scope.</p> <p>11 THE WITNESS: I have no idea.</p> <p>12 MR. LANIER: We've got a chance to</p> <p>13 listen to Linden Barber.</p> <p>14 (Deposition Exhibit 19 was marked</p> <p>15 for identification.)</p> <p>16 BY MR. LANIER:</p> <p>17 Q. Let me show you a document that</p> <p>18 we'll mark as Exhibit No. 20, which is a</p> <p>19 document he prepared -- or 19. Excuse me.</p> <p>20 Exhibit 19.</p> <p>21 This is one he prepared when he was</p> <p>22 still working for the DEA before he went to</p> <p>23 work for industry.</p> <p>24 MR. BENNETT: Objection. Counsel,</p> <p>25 I'm not sure if you're aware of this, but the</p>
<p style="text-align: right;">Page 670</p> <p>1 for our safety, health and welfare in America?</p> <p>2 MR. EPPICH: Object to the form.</p> <p>3 THE WITNESS: Absolutely.</p> <p>4 BY MR. LANIER:</p> <p>5 Q. Thank you, sir.</p> <p>6 Next subject. No. Let's stay on</p> <p>7 that subject for a moment.</p> <p>8 So you had mentioned before -- this</p> <p>9 is still on documents from the DEA.</p> <p>10 You had mentioned before that some</p> <p>11 DEA folks went to work for industry, right?</p> <p>12 A. Yes, sir.</p> <p>13 Q. I think one example is Linden</p> <p>14 Barber.</p> <p>15 Do you know Linden Barber?</p> <p>16 A. Yes, sir.</p> <p>17 MR. LANIER: Want to see how much</p> <p>18 time I got. Hold on. I have 12 minutes? I</p> <p>19 have time to burn.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. Did anybody from the pharma or did</p> <p>22 you ever know whether or not any of those</p> <p>23 ex-DEA folks who went to work for the companies</p> <p>24 have their own sets of documents they took from</p> <p>25 the DEA?</p>	<p style="text-align: right;">Page 672</p> <p>1 Department of Justice is seeking to claw this</p> <p>2 document back, is my understanding.</p> <p>3 I believe that this document is</p> <p>4 privileged, contains attorney-client privileged</p> <p>5 communications.</p> <p>6 And so we intend to -- we are still</p> <p>7 tracking down how Cardinal Health got this</p> <p>8 document. But we are intending to claw this</p> <p>9 document back. And so I do not believe this</p> <p>10 witness can answer any questions regarding this</p> <p>11 document.</p> <p>12 MR. LANIER: This was now attached</p> <p>13 to the Walgreens expert report. So this</p> <p>14 thing's like all over the place.</p> <p>15 MR. BENNETT: I understand the</p> <p>16 problem.</p> <p>17 MR. LANIER: So will you be</p> <p>18 instructing him not to answer? And do I have a</p> <p>19 right to appeal on that or...</p> <p>20 MR. BENNETT: It will depend on what</p> <p>21 your question is.</p> <p>22 MR. LANIER: Okay. I don't think</p> <p>23 it's a bad one.</p> <p>24 MR. BENNETT: However, I will say,</p> <p>25 if we claw it back, we will ask this portion of</p>

<p style="text-align: right;">Page 673</p> <p>1 the transcript be redacted.</p> <p>2 MR. LANIER: Deal. Deal. And then</p> <p>3 we don't have to retake a depo if I wind up</p> <p>4 getting...</p> <p>5 MR. BENNETT: I'd objection.</p> <p>6 BY MR. LANIER:</p> <p>7 Q. All right. So --</p> <p>8 MR. BENNETT: And again, I don't</p> <p>9 want this information shared.</p> <p>10 MS. MAINIGI: Mr. Bennett, we would</p> <p>11 have an ongoing objection to that line of</p> <p>12 questioning.</p> <p>13 MR. BENNETT: And I have an object</p> <p>14 to this being used at all. If you want to ask</p> <p>15 him if he knows whether this was taken or not,</p> <p>16 I would let him answer that question "yes" or</p> <p>17 "no." To the extent that you're showing any of</p> <p>18 the contents of this document, we would object</p> <p>19 to it.</p> <p>20 MR. LANIER: Object. But will you</p> <p>21 instruct him not to answer, or can I still ask?</p> <p>22 I don't know what the rules are.</p> <p>23 MR. BENNETT: I don't know the</p> <p>24 questions that you're going to ask.</p> <p>25 SPECIAL MASTER COHEN: You got ask</p>	<p style="text-align: right;">Page 675</p> <p>1 Did you, on your personal knowledge,</p> <p>2 know that to be true?</p> <p>3 A. Yes.</p> <p>4 Q. The second paragraph, it says:</p> <p>5 "While it's appropriate" -- and this is the</p> <p>6 second sentence.</p> <p>7 "While it's appropriate for a</p> <p>8 diversion investigator to provide guidance to</p> <p>9 registrants with respect to their suspicious</p> <p>10 order reporting system, it remains the sole</p> <p>11 responsibility of the registrant to design and</p> <p>12 operate such a system."</p> <p>13 Do you agree with that assessment?</p> <p>14 MR. BENNETT: You may answer that</p> <p>15 question.</p> <p>16 MS. MAINIGI: Objection. Form.</p> <p>17 Foundation.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. LANIER:</p> <p>20 Q. And do you know whether or not</p> <p>21 Linden Barber took that knowledge with him when</p> <p>22 he went to work for the distributor that he</p> <p>23 went the work for?</p> <p>24 A. I don't know if he took --</p> <p>25 MS. MAINIGI: Objection. Form.</p>
<p style="text-align: right;">Page 674</p> <p>1 and see what happens.</p> <p>2 MR. LANIER: All right.</p> <p>3 BY MR. LANIER:</p> <p>4 Q. Sir, did Linden Barber know and</p> <p>5 report -- I guess I shouldn't show it yet --</p> <p>6 that investigations of wholesale distributors</p> <p>7 have revealed that many of the distributors are</p> <p>8 not filing suspicious order reports?</p> <p>9 MS. MAINIGI: Objection. Scope.</p> <p>10 Objection. Foundation. Form.</p> <p>11 MR. EPPICH: Objection.</p> <p>12 THE WITNESS: I -- Linden Barber --</p> <p>13 MR. BENNETT: Hold on. Hold on.</p> <p>14 THE WITNESS: Okay. Sorry.</p> <p>15 MR. BENNETT: You can answer within</p> <p>16 your personal knowledge "yes" or "no," if you</p> <p>17 know.</p> <p>18 THE WITNESS: Could you repeat the</p> <p>19 question. I want to make sure I got it right.</p> <p>20 BY MR. LANIER:</p> <p>21 Q. Yes, sir. And I'm basing it on the</p> <p>22 first sentence.</p> <p>23 "Investigation of wholesale</p> <p>24 distributors have revealed many distributors</p> <p>25 are not filing suspicious order report."</p>	<p style="text-align: right;">Page 676</p> <p>1 Foundation. Scope.</p> <p>2 THE WITNESS: I mean he knew what</p> <p>3 was going on with the distributors not filing</p> <p>4 suspicious orders. I -- I don't know what he</p> <p>5 took, what he didn't take.</p> <p>6 BY MR. LANIER:</p> <p>7 Q. All right. Next subject.</p> <p>8 The Walmart lawyer went last, and he</p> <p>9 started asking you some hypotheticals about</p> <p>10 Distributor A and Distributor B. And I'm not</p> <p>11 sure I followed it, but I think I did.</p> <p>12 You with me?</p> <p>13 A. Yes, sir.</p> <p>14 Q. I want to ask you some questions.</p> <p>15 He basically got you to say, if</p> <p>16 Distributor A or B is doing something wrong but</p> <p>17 the other distributor is not, would you impute</p> <p>18 from one to the other.</p> <p>19 Do you remember all of that talk?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Here's my question: Would it matter</p> <p>22 to you if the two had conspired to work</p> <p>23 together by joining the same hospital</p> <p>24 association or -- or healthcare association</p> <p>25 or -- or working together in some way to</p>

<p style="text-align: right;">Page 677</p> <p>1 further a plan?</p> <p>2 Would that matter?</p> <p>3 MR. STEPHENS: Object to form.</p> <p>4 Calls for legal conclusion.</p> <p>5 THE WITNESS: If --</p> <p>6 MR. STEPHENS: Foundation.</p> <p>7 MR. BENNETT: And I'll object to</p> <p>8 scope.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: Yes, it did -- it does</p> <p>11 matter.</p> <p>12 BY MR. LANIER:</p> <p>13 Q. I mean you -- he kept saying would</p> <p>14 you hold Distributor B if it was Distributor A</p> <p>15 and you kept saying, "Give me more data. Give</p> <p>16 me more data. Give me more data."</p> <p>17 I'm giving you more data.</p> <p>18 If they're in a conspiracy, does</p> <p>19 that make a difference?</p> <p>20 A. Yes, it does.</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 BY MR. LANIER:</p> <p>23 Q. Does it matter if they're both</p> <p>24 supplying excessive opioid?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 679</p> <p>1 He showed it to you in the exhibit?</p> <p>2 A. It's -- yes. It's what -- it's what</p> <p>3 Patterson testified to.</p> <p>4 Q. What he left out when he showed you</p> <p>5 that is this paragraph in the middle. It says:</p> <p>6 "I understand that their desire in a lot of</p> <p>7 these cases is to be able to get</p> <p>8 contemporaneous evidence, use undercover as</p> <p>9 opposed to having to use witnesses that have</p> <p>10 come in that may not have the best of</p> <p>11 backgrounds."</p> <p>12 Do you see that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Did you all have undercover agents?</p> <p>15 Or was that FBI agents? Or who had the</p> <p>16 undercover agents?</p> <p>17 MR. O'CONNOR: Objection.</p> <p>18 MR. BENNETT: Objection. Scope.</p> <p>19 I'll remind you that you cannot</p> <p>20 disclose confidential law enforcement</p> <p>21 investigative techniques, the effectiveness of</p> <p>22 which would be impaired.</p> <p>23 You are authorized to answer that</p> <p>24 question "yes" or "no" only.</p> <p>25 THE WITNESS: So the -- the question</p>
<p style="text-align: right;">Page 678</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 BY MR. LANIER:</p> <p>3 Q. Does it matter if you've got two</p> <p>4 distributors that are supplying to the same</p> <p>5 retailer, and both of them know that the other</p> <p>6 one's supplying as well when they're trying to</p> <p>7 figure out orders of unusual size?</p> <p>8 MR. STEPHENS: Objection. Form.</p> <p>9 MS. MAINIGI: Objection.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. LANIER:</p> <p>12 Q. All right. Next subject.</p> <p>13 You got asked, if the DEA waited a</p> <p>14 year to file.</p> <p>15 Do you remember?</p> <p>16 A. Yes, sir.</p> <p>17 I think this is --</p> <p>18 Q. And there --</p> <p>19 A. -- supposed to be ISOs.</p> <p>20 Q. ISOs not ASO.</p> <p>21 And in that regard, there was</p> <p>22 evidently, at least in one circumstance, a</p> <p>23 delay of one year suspension orders for</p> <p>24 investigation purposes.</p> <p>25 Do you remember that?</p>	<p style="text-align: right;">Page 680</p> <p>1 is --</p> <p>2 BY MR. LANIER:</p> <p>3 Q. Is did you all have undercover</p> <p>4 operatives?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Then maybe you can answer</p> <p>7 this one too: Do you wanted to rat out your</p> <p>8 undercover ops?</p> <p>9 A. You'd disclose their -- no.</p> <p>10 Q. All right. And if the company is</p> <p>11 not doing something illegal, this problem never</p> <p>12 arises.</p> <p>13 Fair?</p> <p>14 MR. EPPICH: Objection. Form.</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 BY MR. LANIER:</p> <p>17 Q. Or if a registrant's not. Let me</p> <p>18 put it that way.</p> <p>19 MR. EPPICH: Objection. Form.</p> <p>20 Vague.</p> <p>21 THE WITNESS: Yes, sir.</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 MR. LANIER: All right. I think I'm</p> <p>24 out of time as well.</p> <p>25 I thank you very much, Mr.</p>

<p style="text-align: right;">Page 681</p> <p>1 Rannazzisi. It has been a pleasure to get to  2 know you.  3 THE WITNESS: Thank you.  4 THE VIDEOGRAPHER: This concludes  5 today's deposition.  6 Going off record.  7 Time is 4:22.  8 (Whereupon, the deposition was  9 concluded at 4:22 p.m.)  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 683</p> <p>1 Veritext Legal Solutions  2 1100 Superior Ave  3 Suite 1820  4 Cleveland, Ohio 44114  5 Phone: 216-523-1313  6  7 May 20, 2019  8 To: Gregory Utter, Esq.  9  10 Case Name: In Re: National Prescription Opiate Litigation  11 Veritext Reference Number: 3301884  12  13 Witness: Joseph Rannazzisi Deposition Date: 5/15/2019  14  15 Dear Sir/Madam:  16  17 Enclosed please find a deposition transcript. Please have the witness  18 review the transcript and note any changes or corrections on the  19 included errata sheet, indicating the page, line number, change, and  20 the reason for the change. Have the witness' signature notarized and  21 forward the completed page(s) back to us at the Production address  22 shown  23 above, or email to production-midwest@veritext.com.  24  25 If the errata is not returned within thirty days of your receipt of  this letter, the reading and signing will be deemed waived.  Sincerely,  Production Department  NO NOTARY REQUIRED IN CA</p>
<p style="text-align: right;">Page 682</p> <p>1 CERTIFICATE OF NOTARY PUBLIC  2 I, Bonnie L. Russo, the officer before  3 whom the foregoing deposition was taken, do  4 hereby certify that the witness whose testimony  5 appears in the foregoing deposition was duly  6 sworn by me; that the testimony of said witness  7 was taken by me in shorthand and thereafter  8 reduced to computerized transcription under my  9 direction; that said deposition is a true  10 record of the testimony given by said witness;  11 that I am neither counsel for, related to, nor  12 employed by any of the parties to the action in  13 which this deposition was taken; and further,  14 that I am not a relative or employee of any  15 attorney or counsel employed by the parties  16 hereto, nor financially or otherwise interested  17 in the outcome of the action.  18  19   20 Notary Public in and for  21 the District of Columbia  22  23 My Commission expires: June 30, 2020  24  25</p>	<p style="text-align: right;">Page 684</p> <p>1 DEPOSITION REVIEW  2 CERTIFICATION OF WITNESS  3  4 ASSIGNMENT REFERENCE NO: 3301884  5 CASE NAME: In Re: National Prescription Opiate Litigation  6 DATE OF DEPOSITION: 5/15/2019  7 WITNESS' NAME: Joseph Rannazzisi  8 In accordance with the Rules of Civil  9 Procedure, I have read the entire transcript of  10 my testimony or it has been read to me.  11 I have made no changes to the testimony  12 as transcribed by the court reporter.  13  14 Date _____ Joseph Rannazzisi  15 Sworn to and subscribed before me, a  16 Notary Public in and for the State and County,  17 the referenced witness did personally appear  18 and acknowledge that:  19  20 They have read the transcript;  21 They signed the foregoing Sworn  22 Statement; and  23 Their execution of this Statement is of  24 their free act and deed.  25  I have affixed my name and official seal  this _____ day of _____, 20____.  _____  Notary Public  _____  Commission Expiration Date</p>



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1 DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

2

3 ASSIGNMENT REFERENCE NO: 3301884

4 CASE NAME: In Re: National Prescription Opiate Litigation

5 DATE OF DEPOSITION: 5/15/2019

6 WITNESS' NAME: Joseph Rannazzisi

7 In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
8 my testimony or it has been read to me.

9 I have listed my changes on the attached  
Errata Sheet, listing page and line numbers as  
10 well as the reason(s) for the change(s).

11 I request that these changes be entered  
as part of the record of my testimony.

12

13 I have executed the Errata Sheet, as well  
14 as this Certificate, and request and authorize  
that both be appended to the transcript of my  
15 testimony and be incorporated therein.

16 \_\_\_\_\_  
Date Joseph Rannazzisi

17 Sworn to and subscribed before me, a  
18 Notary Public in and for the State and County,  
the referenced witness did personally appear  
19 and acknowledge that:

20 They have read the transcript;  
They have listed all of their corrections  
21 in the appended Errata Sheet;  
They signed the foregoing Sworn  
22 Statement; and  
Their execution of this Statement is of  
23 their free act and deed.

24 I have affixed my name and official seal  
25 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

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1 ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS MIDWEST

2 ASSIGNMENT NO: 3301884

3 PAGE/LINE(S) / CHANGE /REASON

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5 \_\_\_\_\_

6 \_\_\_\_\_

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19 \_\_\_\_\_

20 \_\_\_\_\_  
Date Joseph Rannazzisi

21 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_

22 DAY OF \_\_\_\_\_, 20\_\_\_\_.

23 \_\_\_\_\_  
Notary Public

24 \_\_\_\_\_

25 \_\_\_\_\_  
Commission Expiration Date

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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